

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:15-19338 Jesus Aguilar and Maria G Aguilar

Chapter 13

#1.00 Motion for relief from the automatic stay with supporting declarations REAL
PROPERTY RE: 138 West Magnolia Ave San Bernardino CA 92405

MOVANT: WILMINGTON SAVINGS FUND SOCIETY FSB

EH__

Docket 66

***** VACATED *** REASON: ORDER ENTERED 1/7/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus Aguilar

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Maria G Aguilar

Represented By
Jaime A Cuevas Jr.

Movant(s):

Wilmington Savings Fund Society,

Represented By
Ashish R Rawat
Dane W Exnowski
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

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

Hearing Room 303

10:00 AM

6:16-15119 Rodolfo Domingo Plado and Esmenia Rivera Plado

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4356 Camino San Miguel

MOVANT: WELLS FARGO BANK N.A.

From: 12/4/18

EH__

Docket 49

*** VACATED *** REASON: ORDER ENTERED 1/2/19

Tentative Ruling:

12/4/2018
Service: Proper
Opposition: Yes

The parties are to update the Court regarding any discussions regarding an APO.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Rodolfo Domingo Plado

Represented By
Dana Travis

Joint Debtor(s):

Esmenia Rivera Plado

Represented By
Dana Travis

Movant(s):

Wells Fargo Bank, N.A./Wells Fargo

Represented By
Rosemary Allen
Michelle Jones
Nancy L Lee

**United States Bankruptcy Court
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CONT... Rodolfo Domingo Plado and Esmenia Rivera Plado

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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

Hearing Room 303

10:00 AM

6:17-13539 Albert Granados

Chapter 13

#3.00 Motion for relief from the automatic stay with supporting declarations REAL
PROPERTY RE: 2752 Harrison St Riverside, CA 92503

MOVANT: FREEDOM MORTGAGE CORPORATION

EH__

Docket 43

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)
(1). GRANT waiver of Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3.
DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or
written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Albert Granados

Represented By
Jonathan D Doan

Movant(s):

Freedom Mortgage Corporation

Represented By
Mark S Krause
Erin M McCartney
Dane W Exnowski

**United States Bankruptcy Court
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CONT... Albert Granados

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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

Hearing Room 303

10:00 AM

6:17-13649 Fernando Fabrigas, Sr. and Estela F. Fabrigas

Chapter 7

#4.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 231 Arden Street, Hemet, CA 92543

MOVANT: FREEDOM MORTGAGE CORPORATION

From: 7/31/18, 10/30/18

EH__

Docket 75

***** VACATED *** REASON: CONTINUED TO 2/5/19 AT 10:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Fernando Fabrigas Sr.

Represented By
R Creig Greaves
Kevin Tang

Joint Debtor(s):

Estela F. Fabrigas

Represented By
R Creig Greaves
Kevin Tang

Movant(s):

FREEDOM MORTGAGE

Represented By
Jason C Kolbe
Nancy L Lee

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Brandon J Iskander

**United States Bankruptcy Court
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10:00 AM

CONT...

**Fernando Fabrigas, Sr. and Estela F. Fabrigas
Rika Kido**

Chapter 7

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

Hearing Room 303

10:00 AM

6:17-18531 Victor Manuel Rosales

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 NISSAN Rogue Utility 4D SV 2WD I4

MOVANT: CAPITAL ONE AUTO FINANCE

EH__

Docket 75

***** VACATED *** REASON: ORDER ENTERED 1/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Victor Manuel Rosales

Represented By
D Justin Harelik

Movant(s):

Capital One Auto Finance, a division

Represented By
Cheryl A Skigin

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Hearing Room 303

10:00 AM

6:17-18807 Malama Togia

Chapter 13

#6.00 Motion for relief from the automatic stay with supporting declarations REAL
PROPERTY RE: 17304 Birchtree St, Fontana, CA 92337

MOVANT: NATIONSTAR MORTGAGE LLC dba MR COOPER

EH__

Docket 59

*** VACATED *** REASON: CASE DISMISSED 12/10/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malama Togia

Represented By
Julie J Villalobos

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:17-19605 Victor Manuel Buelna and Adriana Alvizo

Chapter 13

#7.00 Motion for relief from the automatic stay with supporting declarations REAL
PROPERTY RE: 9728 Kempster Ave Fontana, CA 92335

MOVANT: LAKEVIEW LOAN SERVICING LLC

EH__

Docket 36

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)
(1). GRANT waiver of Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3.
DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or
written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Victor Manuel Buelna

Represented By
David Lozano

Joint Debtor(s):

Adriana Alvizo

Represented By
David Lozano

Movant(s):

LakeView Loan Servicing, LLC

Represented By
Erin M McCartney

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CONT... Victor Manuel Buelna and Adriana Alvizo

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

10:00 AM

6:18-12022 Maribel M Vasquez

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Jeep Wrangler, VIN: 1C4BJWFG5GL132242

MOVANT: SANTANDER CONSUMER USA INC.

EH__

Docket 28

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Maribel M Vasquez

Represented By
Rebecca Tomilowitz

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:18-12027 Richard M. Thomas and Raquel Young

Chapter 7

#9.00 Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2013 Kia Optima, VIN: 5XXGM4A70DG168764

MOVANT: WELLS FARGO BANK NA

Also #10

EH __

Docket 30

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

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CONT... Richard M. Thomas and Raquel Young

Chapter 7

Movant(s):

Wells Fargo Bank, N.A. d/b/a Wells

Represented By
Jennifer H Wang

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

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10:00 AM

6:18-12027 Richard M. Thomas and Raquel Young

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Toyota Sienna, VIN: 5TDYK3DC6ES474400

MOVANT: SANTANDER CONSUMER USA INC.

Also #9

EH__

Docket 32

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

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CONT... Richard M. Thomas and Raquel Young

Chapter 7

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

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10:00 AM

6:18-13481 Rorye James Mosley, Sr.

Chapter 13

#11.00 Motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 40015 Tinderbox Way, Murrieta, California 92562

MOVANT: CARRINGTON MORTGAGE SERVICES LLC

EH ____

Docket 30

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001(a)(3) stay. GRANT request for relief from § 1301(a) co-debtor stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Rorye James Mosley Sr.

Represented By
Brian J Soo-Hoo

Movant(s):

Carrington Mortgage Services, LLC

Represented By
Diana Torres-Brito
Asya Landa

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:18-14725 Percylyn Agustin Basa

Chapter 13

#12.00 Motion for relief from the automatic stay with supporting declarations REAL
PROPERTY RE: 14623 Meadowsweet Dr Eastvale, CA 92880

MOVANT: NATIONSTAR MORTGAGE LLC dba MR COOPER

EH__

Docket 56

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: Yes

Movant to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Percylyn Agustin Basa

Represented By
Benjamin R Heston

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Angie M Marth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:18-14761 Reginald D. Caldwell

Chapter 13

#13.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 34524 Devlin Dr, Beaumont, CA 92223

MOVANT: MIDFIRST BANK

From: 12/4/18

EH__

Docket 33

Tentative Ruling:

12/4/2018
Service: Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
GRANT requests under ¶¶ 3 and 12.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Reginald D. Caldwell

Represented By
Patricia M Ashcraft

Movant(s):

MidFirst Bank

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:18-16261 Joseph R. Hernandez

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1541 Strawberry Drive, Perris, CA, 92571 UNDER 11 U.S.C. § 362.

MOVANT: NATIONSTAR MORTGAGE LLC

EH__

Docket 26

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joseph R. Hernandez

Represented By
Christopher J Langley

Movant(s):

Nationstar Mortgage LLC dba Mr

Represented By
Dane W Exnowski
John D Schlotter

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

10:00 AM

6:18-16489 Rebecca Moore

Chapter 13

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23093 Canyon Hills Drive, Corona, California 92883

MOVANT: HSBC BANK USA, NATIONAL ASSOCIATION

EH__

Docket 36

Tentative Ruling:

1/8/2019

Service is Proper

Opposition: Yes

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request for relief pursuant to § 362(d)(4) based on unauthorized transfer of interest and multiple bankruptcy filings affecting the property, which the Court finds evidences a scheme to hinder, delay, or defraud Movant. GRANT waiver of Rule 4001(a)(3) stay. GRANT relief from § 1301(a) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Rebecca Moore

Represented By
Edward T Weber

Movant(s):

HSBC Bank USA, National

Represented By
Jamie D Hanawalt
Gilbert R Yabes

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CONT... Rebecca Moore

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:18-17349 Thomas More Butler and Tamara Butler

Chapter 13

#16.00 Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2005 Monterey Cruiser Boat & 2006 Trailrite
Trailer

MOVANT: LBS FINANCIAL CREDIT UNION

EH__

Docket 36

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001(a)(3) stay. DENY request for relief from § 1301(a) stay because the motion does not appear to have been served on any "co-debtor," as that term is used in the statute. GRANT requests under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Thomas More Butler

Represented By
Stuart G Steingraber

Joint Debtor(s):

Tamara Butler

Represented By
Stuart G Steingraber

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CONT... Thomas More Butler and Tamara Butler

Chapter 13

Movant(s):

LBS Financial Credit Union

Represented By
Karel G Rocha

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:18-17786 Brian Matthew Grosse and Maela Brillantes Grosse

Chapter 7

#17.00 Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2016 HONDA ODYSSEY, VIN: 5FNR L5H4 5GB1
11285

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

Docket 21

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)
(1) and (2). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2.
DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or
written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Brian Matthew Grosse

Represented By
Nicholas M Wajda

Joint Debtor(s):

Maela Brillantes Grosse

Represented By
Nicholas M Wajda

Movant(s):

AMERICAN HONDA FINANCE

Represented By

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10:00 AM

**CONT... Brian Matthew Grosse and Maela Brillantes Grosse
Vincent V Frounjian**

Chapter 7

Trustee(s):

John P Pringle (TR)

Pro Se

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

6:18-17995 Jingyi Luo

Chapter 13

#18.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 10153 Green Street, Temple City, CA 91780

MOVANT: DEUTSCHE BANK TRUST COMPANY AMERICAS

CASE DISMISSED 10/9/18

EH__

Docket 16

Tentative Ruling:

1/8/2019

On September 21, 2018, Jingyi Luo ("Debtor") filed a skeletal, *pro se*, Chapter 13 voluntary petition. The case was dismissed on October 9, 2018, for failure to file case commencement documents.

On December 13, 2018, Deutsche Bank Trust Company Americas ("Purchaser") filed a motion for relief from the automatic stay (the "Annulment Motion"), requesting, in part, retroactive annulment of the automatic stay. Because the case was dismissed, the Court deems all Purchaser's requests that are not retroactive or *in rem* in nature to be moot. The Court will also deny Purchaser's request for *in rem* relief from stay pursuant to 11 U.S.C. § 362(d)(4) because the instant motion was filed more than two months after the case was dismissed.

Regarding Purchaser's request for annulment of the automatic stay, the following are the pertinent facts. Purchaser purchased the subject real property at a foreclosure sale held on September 24, 2018 at 11:00 a.m. According to the declaration of a manager

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CONT...

Jingyi Luo

Chapter 13

for the foreclosing trustee, the foreclosing trustee did not receive notice of the instant bankruptcy filing until nine minutes after the foreclosure sale began. Purchaser has also submitted a declaration stating that it did not have notice of the bankruptcy filing at the time of the foreclosure. Purchaser also asserts that the property has been the subject of twenty unauthorized transfers (nineteen of which occurred in 2015 or later) and nineteen bankruptcies affecting the property since April 2015. The Court takes judicial notice of the docket in this case, and notes that it does not appear either the foreclosing trustee or Purchaser was listed on the mailing list of creditors.

11 U.S.C. § 362(d) states:

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided, under subsection (a) of this section such as by terminating, *annulling*, modifying, or condition such stay –

(emphasis added); *see also In re Schwartz*, 954 F.2d 569, 573 (9th Cir. 1992) ("If a creditor obtains retroactive relief under section 362(d), there is no violation of the automatic stay, and whether violations of the stay are void or voidable is not at issue.").

The BAP, in *In re Fjeldsted*, noted the absence of a clear standard for annulment of the automatic stay. 293 B.R. 12, 21 (B.A.P. 9th Cir. 2003) ("There is less appellate clarity, however, in enunciating a test for retroactive stay relief. Inconsistent standards have thus developed, which run the gamut from such relief being justified only in 'extreme circumstances' to giving the court 'wide latitude' to 'balance the equities' on a case-by-case basis."). The BAP's most recent announcement of the standard for annulment of the automatic stay stated the following:

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CONT...

Jingyi Luo

Chapter 13

Determining whether cause exists to annul the stay is a case-by-case inquiry based on a balance of the equities. In conducting this inquiry the bankruptcy court, among other factors, should consider whether the creditor knew of the bankruptcy when violating the stay and whether the debtor's conduct was unreasonable, inequitable or prejudicial to the creditor.

In *Fjeldsted*, we approved additional factors for consideration in assessing the equities. The twelve nonexclusive factors are: (1) number of filings; (2) whether, in a repeat filing case, the circumstances indicate an intention to delay and hinder creditors; (3) a weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser; (4) the debtor's overall good faith (totality of circumstances test); (5) whether creditors knew of stay but nonetheless took action, thus compounding the problem; (6) whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules; (7) the relative ease of restoring parties to the status quo ante; (8) the costs of annulment to debtors and creditors; (9) how quickly creditors moved for annulment, or how quickly debtor moved to set aside the sale or violative conduct; (10) whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief; (11) whether annulment of the stay will cause irreparable injury to the debtor; and (12) whether stay relief will promote judicial economy or other efficiencies. The Panel in *Fjeldsted* cautioned that the twelve factors are merely a framework for analysis and not a scorecard, and that in any given case, one factor may so outweigh the others as to be dispositive.

In re Estavan Capital LLC, 2015 WL 7758494 at *5 (B.A.P. 9th Cir. 2015) (citations and quotations omitted).

While *Fjeldsted* cautioned that the enumerated factors are not a scorecard, it is clear that the *Fjeldsted* factors weigh in favor of annulling the stay. Specifically, as is noted by Purchaser, this is the nineteenth bankruptcy affecting the property, and there have

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CONT... Jingyi Luo

Chapter 13

been twenty unauthorized transfers affecting the property. Furthermore, the instant filing was a skeletal petition and Debtor took no further action to comply with the duties of a debtor in bankruptcy. Finally, there is no evidence that the foreclosing trustee or Purchaser were aware of the bankruptcy filing at the time of the foreclosure.

Given the history of bankruptcy filings and unauthorized transfers affecting the property, the timing of the filing in this case, Debtor's non-fulfillment of her duties as a debtor in bankruptcy, and the absence of timely notice of the bankruptcy filing to the foreclosing trustee or Purchaser, the Court is inclined to GRANT the motion, annulling the automatic stay retroactive to the petition date.

Because Purchaser filed its motion after dismissal of the instant bankruptcy case, all substantive requests other than retroactive § 362(d)(1) relief are DENIED as moot. The Court is inclined to GRANT waiver of the Rule 4001(a)(3) stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jingyi Luo	Pro Se
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Movant(s):

Deutsche Bank Trust Company	Represented By Darlene C Vigil
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Trustee(s):

Rod Danielson (TR)	Pro Se
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10:00 AM

6:18-18384 Kent Christian

Chapter 7

#19.00 Motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 40937 Lacroix Ave Murrieta CA 92562

MOVANT: PENNYMAC LOAN SERVICES LLC AND ITS SUCCESSORS

EH__

Docket 15

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Kent Christian

Represented By
David L Nelson

Movant(s):

PennyMac Loan Services, LLC

Represented By
Christina J O

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-18617 Jose Antonio Ramos Torrelío

Chapter 7

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Lexus CT200H; VIN: JTHKD5BH6F2235298

MOVANT: AIR FORCE FEDERAL CREDIT UNION

EH__

Docket 17

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose Antonio Ramos Torrelío

Represented By
Kevin Tang

Movant(s):

Air Force Federal Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-18705 Dorina M. Meraz

Chapter 7

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2024 Domar Place, Oxnard, CA 93036

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

EH__

Docket 13

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Dorina M. Meraz

Represented By
James D. Hornbuckle

Movant(s):

Deutsche Bank National Trust

Represented By
Darlene C Vigil

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-19015 Sheila Malone

Chapter 13

#22.00 Motion for relief from the automatic stay with supporting declarations REAL PROPERTY Re: 33249 Newbury St, Yucaipa, CA 92399 UNDER 11 USC § 362

MOVANT: WELLS FARGO BANK NA

EH__

Docket 11

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

Because the instant case was dismissed on November 13, 2018, the Court is inclined to CONFIRM that the automatic stay is not in effect and GRANT waiver of the Rule 4001(a) stay. Because the instant motion was filed sixteen days after the case was dismissed, the Court is inclined to DENY the remainder of the relief requested.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sheila Malone

Pro Se

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-19401 Edwina Brewer

Chapter 7

#23.00 Motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3280 Stallion Street, Ontario, CA 91761

MOVANT: NUVISION FEDERAL CREDIT UNION

EH ____

Docket 14

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to DENY the motion for lack of cause shown. While Movant indicates that there is a relatively small equity cushion on page 8 of the motion, Movant made a math error which resulted in the equity cushion being understated by \$100,000. As a result, it appears that Debtor actually has substantial equity in the subject real property. Additionally, the motion only indicates that there was a relatively small pre-petition delinquency; in fact, not a single postpetition payment had come due by the time the motion had been filed. Given that the equity cushion is approximately \$157,000 and the delinquency is only \$3,204.70, the Court concludes that Movant is adequately protected. Finally, Movant is the junior lienholder and does not appear to have served the senior lienholder as required by Local Rule 4001-1(c)(1)(C)(iv).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Edwina Brewer

Represented By
Brian J Soo-Hoo

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

CONT... Edwina Brewer

Chapter 7

Movant(s):

NuVision Federal Credit Union

Represented By
Alana B Anaya

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-19418 Vanessa Alexander

Chapter 13

#24.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4660 Rawhide Street, Montclair, CA 91763 UNDER 11 U.S.C. § 362

MOVANT: WILMINGTON TRUST, NATIONAL ASSOCIATION

CASE DISMISSED 11/26/18

EH__

Docket 13

Tentative Ruling:

1/8/2019

On November 5, 2018, Vanessa Alexander ("Debtor") filed a skeletal, *pro se*, Chapter 13 voluntary petition. The case was dismissed on November 26, 2018, for failure to file case commencement documents.

On December 10, 2018, Wilmington Trust, National Association ("Creditor") filed a motion for relief from the automatic stay (the "Annulment Motion"), requesting, in part, retroactive annulment of the automatic stay. Because the case was dismissed, the Court deems all Creditor's requests that are not retroactive or *in rem* in nature to be moot. The Court will also deny Creditor's request for *in rem* relief from stay pursuant to 11 U.S.C. § 362(d)(4) because the instant motion was filed after the case was dismissed.

Regarding Creditor's request for annulment of the automatic stay, the following are the pertinent facts. Creditor asserts that it received a call from Legal Stop Sale Group at 12:08 p.m. on November 5, 2018, advising Creditor of a possible bankruptcy filing.

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Judge Mark Houle, Presiding
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Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

CONT... Vanessa Alexander

Chapter 13

Creditor states, however, that at that time it could not identify a bankruptcy filing affecting the property. The instant case was ultimately filed at 12:23 p.m.; three minutes later, the foreclosure was complete. Creditor asserts that Debtor was 119 months delinquent for a total delinquency of \$283,676.06.

11 U.S.C. § 362(d) states:

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided, under subsection (a) of this section such as by terminating, *annulling*, modifying, or condition such stay –

(emphasis added); *see also In re Schwartz*, 954 F.2d 569, 573 (9th Cir. 1992) ("If a creditor obtains retroactive relief under section 362(d), there is no violation of the automatic stay, and whether violations of the stay are void or voidable is not at issue.").

The BAP, in *In re Fjeldsted*, noted the absence of a clear standard for annulment of the automatic stay. 293 B.R. 12, 21 (B.A.P. 9th Cir. 2003) ("There is less appellate clarity, however, in enunciating a test for retroactive stay relief. Inconsistent standards have thus developed, which run the gamut from such relief being justified only in 'extreme circumstances' to giving the court 'wide latitude' to 'balance the equities' on a case-by-case basis."). The BAP's most recent announcement of the standard for annulment of the automatic stay stated the following:

Determining whether cause exists to annul the stay is a case-by-case inquiry based on a balance of the equities. In conducting this inquiry the bankruptcy court, among other factors, should consider whether the creditor knew of the bankruptcy when violating the stay and whether the debtor's conduct was

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

CONT...

Vanessa Alexander

Chapter 13

unreasonable, inequitable or prejudicial to the creditor.

In *Fjeldsted*, we approved additional factors for consideration in assessing the equities. The twelve nonexclusive factors are: (1) number of filings; (2) whether, in a repeat filing case, the circumstances indicate an intention to delay and hinder creditors; (3) a weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser; (4) the debtor's overall good faith (totality of circumstances test); (5) whether creditors knew of stay but nonetheless took action, thus compounding the problem; (6) whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules; (7) the relative ease of restoring parties to the status quo ante; (8) the costs of annulment to debtors and creditors; (9) how quickly creditors moved for annulment, or how quickly debtor moved to set aside the sale or violative conduct; (10) whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief; (11) whether annulment of the stay will cause irreparable injury to the debtor; and (12) whether stay relief will promote judicial economy or other efficiencies. The Panel in *Fjeldsted* cautioned that the twelve factors are merely a framework for analysis and not a scorecard, and that in any given case, one factor may so outweigh the others as to be dispositive.

In re Estavan Capital LLC, 2015 WL 7758494 at *5 (B.A.P. 9th Cir. 2015) (citations and quotations omitted).

While *Fjeldsted* cautioned that the enumerated factors are not a scorecard, the *Fjeldsted* factors weigh in favor of annulling the stay here. Specifically, as is noted by Creditor, Debtor filed a skeletal, *pro se*, Chapter 13 bankruptcy three minutes prior to the completion of the foreclosure sale, and, subsequently, made no effort to comply with the duties of a debtor in bankruptcy. Additionally, at the time of the foreclosure Debtor was 119 months delinquent on Creditor's claim. Given the apparent bad faith of Debtor, as is evidenced by the timing of the instant filing and the failure to made

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

Hearing Room 303

10:00 AM

CONT... Vanessa Alexander

Chapter 13

any effort to maintain the instant bankruptcy case, the Court concludes that annulment of the automatic stay, including the co-debtor stay, is warranted in this situation.

Because Purchaser filed its motion after dismissal of the instant bankruptcy case, all substantive requests other than retroactive § 362(d)(1) relief are DENIED as moot. The Court is inclined to GRANT waiver of the Rule 4001(a)(3) stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Vanessa Alexander

Pro Se

Movant(s):

Wilmington Trust, National

Represented By
John D Schlotter

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-19437 Toni Elizabeth Prima - Zuvich

Chapter 13

#25.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1055 E Paseo El Mirador, Palm Springs, CA 92262

MOVANT: FINANCE OF AMERICA REVERSE LLC

EH__

Docket 20

***** VACATED *** REASON: CASE DISMISSED 12/11/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Toni Elizabeth Prima - Zuvich

Represented By
Christopher Hewitt

Movant(s):

Finance of America Reverse LLC,

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-19449 Gary Leigh Lewis

Chapter 7

#26.00 Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2017 Heartland, Torque F396 VIN
5SFCG4331HE325547

MOVANT: BANK OF THE WEST

EH__

Docket 8

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)
(1) and (2). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or
written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Gary Leigh Lewis

Represented By
Stuart G Steingraber

Movant(s):

Bank of the West

Represented By
Bonni S Mantovani

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-19463 Christopher P. Adams and Donisha R. Adams

Chapter 7

#27.00 Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2017 Ford Fusion, VIN: 3FA6P0PU5HR379464

MOVANT: FORD MOTOR CREDIT COMPANY LLC

EH ____

Docket 11

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Christopher P. Adams

Represented By
Keith Q Nguyen

Joint Debtor(s):

Donisha R. Adams

Represented By
Keith Q Nguyen

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

CONT... Christopher P. Adams and Donisha R. Adams

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-19504 Norma Jordana Moreno

Chapter 7

#28.00 Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2017 BMW 3 Series Sedan 4D 330xi AWD

MOVANT: FINANCIAL SERVICES VEHICLE TRUST

EH ____

Docket 14

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Norma Jordana Moreno	Pro Se
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Movant(s):

Financial Services Vehicle Trust	Represented By Cheryl A Skigin
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Trustee(s):

Charles W Daff (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-19563 Danae Alana Solario

Chapter 7

#29.00 Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2018 Mercedes-Benz CLA250C, VIN
WDDSJ4EBXJN514942

MOVANT: DAIMLER TRUST

EH__

Docket 7

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)
(1). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY
alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or
written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Danae Alana Solario

Represented By
Priscilla C Solario

Movant(s):

Daimler Trust

Represented By
Jennifer H Wang

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-19959 Jose Luis Vallejo

Chapter 13

#30.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 14552 Emerald Canyon Ct, Corona, CA 92880

MOVANT: NATIONSTAR MORTGAGE LLC

CASE DISMISSED 12/17/18

EH__

Docket 10

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request for relief pursuant to § 362(d)(4) based on multiple skeletal filings affecting the property and multiple unauthorized transfers of a fractionalized interest in the property in the last six months. GRANT waiver of Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 10. DENY requests under ¶¶ 8 and 11 for lack of cause shown.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jose Luis Vallejo

Pro Se

Movant(s):

Deutsche Bank National Trust

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

CONT... Jose Luis Vallejo

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-20413 Jose Ramon Castaneda

Chapter 13

#31.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 2013 Chevrolet Silverado 1500

MOVANT: JOSE RAMON CASTANEDA

EH__

Docket 13

Tentative Ruling:

1/8/19

The Court is inclined to DENY the motion for lack of cause shown. Specifically, the evidence submitted in support of the request for relief is not sufficiently "clear and convincing" as to overcome the statutory presumption that the case was not filed in good faith.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jose Ramon Castaneda

Represented By
Andrew Moher

Movant(s):

Jose Ramon Castaneda

Represented By
Andrew Moher
Andrew Moher

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, January 8, 2019

Hearing Room 303

10:00 AM

6:18-20539 Jimmie Dale Montezuma and Jovita Arzate Montezuma

Chapter 7

#32.00 Motion for relief from the automatic stay with supporting declarations
UNLAWFUL DETAINER RE: 3440 East 4th St #1051 Ontario, CA 91764

MOVANT: SJC II/FOURTH AND HAVEN LLC

EH__

Docket 8

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jimmie Dale Montezuma

Represented By
Michael E Clark

Joint Debtor(s):

Jovita Arzate Montezuma

Represented By
Michael E Clark

Movant(s):

Todd Brisco

Represented By
Todd A Brisco

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01112 David M. Goodrich, Chapter 11 Trustee v. Source Medical Billing &

#33.00 CONT Status Conference RE: Complaint by David M. Goodrich, Chapter 11 Trustee against Source Medical Billing & Collection, Inc, a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer))

From: 7/10/18, 8/21/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Source Medical Billing &

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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2:00 PM

CONT...

Allied Injury Management, Inc.

Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#34.00 Application for Compensation for Nicholas W Gebelt, Debtor's Attorney, Period: 1/26/2018 to 11/21/2018, Fee: \$31,465.00, Expenses: \$673.89.

EH__

Docket 95

***** VACATED *** REASON: CONTINUED TO 1/29/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 8, 2019

Hearing Room 303

2:00 PM

6:18-20003 LC Stahl LLC

Chapter 11

#35.00 Order (1) Setting Scheduling Hearing and Case Management Conference and
(2) Requiring Status Report

EH ____

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

2:00 PM

6:17-19936 Auto Strap Transport, LLC

Chapter 11

#36.00 Motion Dismissing Chapter 11 Bankruptcy

Also #37 & #38

EH__

Docket 447

Tentative Ruling:

1/8/19

BACKGROUND

On December 1, 2017, Auto Strap Transport, LLC ("Debtor") filed a Chapter 11 voluntary petition. On June 26, 2018, Debtor filed a motion to sell substantially all assets free and clear of liens. After one continuance, the Court granted the sale motion by order entered August 29, 2018. Pursuant to the terms of the sale, Nations Fund I, LLC, the purchaser of Debtor's assets, provided the following consideration: (1) a credit bid of \$2.85 million; (2) the assumption of certain liabilities of Debtor; and (3) \$250,000 in cash. The sale ultimately closed on December 7, 2018. As a result of the sale, Debtor is no longer operating; the only meaningful asset remaining in the estate is the \$250,000 obtained through the sale.

On December 5, 2018, Debtor filed a motion to dismiss the Chapter 11 case, which also requested authorization to pay the four administrative claims. Those four administrative claims are: (1) CIT Group, Inc. in the amount of \$36,323.10; (2) Commercial Credit Group, Inc. in the amount of \$94,878; (3) UST's outstanding quarterly fees in the amount of \$4,875; and (4) attorney's fees for Debtor's counsel, for which an application has been filed requesting \$164,937.77. On December 7, 2018, Commercial Credit Group, Inc. filed a response requesting that the administrative claims be paid prior to dismissal of the underlying bankruptcy case.

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Central District of California
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Hearing Room 303

2:00 PM

CONT... Auto Strap Transport, LLC

Chapter 11

DISCUSSION

11 U.S.C. § 1112(b)(1) states:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

Section 1112(b)(4) provides a non-exhaustive list of examples of cause. Included in the list is § 1112(b)(4)(A) which provides that "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation" constitutes cause. Here, Debtor is no longer operating and there appears to be no reasonable possibility that Debtor could successfully rehabilitate; the continued maintenance of the Chapter 11 case would only operate to accumulate fees which would deplete the funds available for creditors. Therefore, Debtor has established that cause exists pursuant to § 1112(b)(4)(A). Furthermore, as noted by Debtor, the best interests of creditors would be served by dismissing this case, rather than converting the case to Chapter 7, because the only asset remaining in the estate is liquid, and conversion of the case would simply result in a Chapter 7 trustee distributing money to administrative claimants after deducting the statutory trustee commission. Finally, the Court notes that the exception outlined in § 1112(b)(2) is inapplicable to the instant case.

Therefore, the Court is inclined to grant the motion, dismissing Debtor's case after Debtor makes a pro rata distribution to administrative claimants, and pay the outstanding UST's fees in full. The specifics of such distribution are dependent upon the outcome of the fee application of Debtor's counsel, which has not yet been decided on the merits.

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Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, January 8, 2019

Hearing Room 303

2:00 PM

CONT... Auto Strap Transport, LLC

Chapter 11

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Auto Strap Transport, LLC

Represented By
Todd L Turoci

Movant(s):

Auto Strap Transport, LLC

Represented By
Todd L Turoci

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

2:00 PM

6:17-19936 Auto Strap Transport, LLC

Chapter 11

#37.00 CONT Application for Compensation and Notice of Hearing with Proof of Service for Todd L Turoci, Debtor's Attorney, Period: 12/2/2017 to 9/17/2018, Fee: \$164280.00, Expenses: \$7207.77. (Turoci, Todd)
(HOLDING DATE)

From: 10/16/18, 10/30/18, 12/4/18, 12/18/18

Also #36 & #38

EH__

Docket 414

Tentative Ruling:

12/04/2018

Given the current stage of the chapter 11 proceeding, and finding that action by the Debtor to conclude the case remains outstanding, the Court is inclined to CONTINUE the instant fee application for a short time period to permit the Debtor an opportunity to file its request for dismissal and/or to otherwise outline a plan for concluding the case.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Auto Strap Transport, LLC

Represented By
Todd L Turoci

Movant(s):

Auto Strap Transport, LLC

Represented By
Todd L Turoci

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 8, 2019

Hearing Room 303

2:00 PM

6:17-19936 Auto Strap Transport, LLC

Chapter 11

#38.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 1/9/18, 4/10/18, 7/10/18, 7/24/18, 8/14/18, 10/30/18, 12/4/18, 12/18/18

Also #36 & #37

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Auto Strap Transport, LLC

Represented By
Todd L Turoci

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

10:00 AM

6:18-18650 Monica R Garcia

Chapter 7

#1.00 Pro se Reaffirmation Agreement Between Debtor and LBS Financial Credit Union re 2015 Acura TLX

EH__

Docket 17

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Monica R Garcia

Represented By
Ricardo Nicol

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

10:00 AM

6:18-18827 Myloan Thi Truong

Chapter 7

#2.00 Pro se Reaffirmation Agreement Between Debtor and TD Auto Finance LLC re:
2017 Nissan Rogue

Also #3

EH ____

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Myloan Thi Truong

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

10:00 AM

6:18-18827 Myloan Thi Truong

Chapter 7

#3.00 Pro se Reaffirmation Agreement Between Debtor and Capital One Auto Finance, a division of Capital One, N.A. re 2015 Nissan Sentra Sedan

Also #2

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Myloan Thi Truong

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

10:00 AM

6:18-19117 Cora L. Fix

Chapter 7

#4.00 Reaffirmation Agreement Between Debtor and Kia Motors Finance Re: 2016 Kia Soul

Also #5

EH__

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cora L. Fix

Represented By
James D. Hornbuckle

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

10:00 AM

6:18-19117 Cora L. Fix

Chapter 7

#5.00 Pro se Reaffirmation Agreement Between Debtor and Kia Motors Finance re
2015 Kia Soul

Also #4

EH__

Docket 21

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cora L. Fix

Represented By
James D. Hornbuckle

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

10:00 AM

6:18-19192 Stephanie Ramirez

Chapter 7

#6.00 Reaffirmation Agreement Between Debtor and CarMax Auto Finance re 2005 Ford Expedition

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie Ramirez

Represented By
Michael H Colmenares

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

10:00 AM

6:18-19207 Jonathan Smith

Chapter 7

#7.00 Motion for Approval of Reaffirmation Agreement with Navy Federal Credit Union
Re: 2013 Smart Fortwo

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jonathan Smith

Represented By
Daniel King

Movant(s):

Navy Federal Credit Union

Pro Se

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

10:00 AM

6:18-19266 Allen Bert Cole and Elisa L Cole

Chapter 7

#8.00 Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation
Re: 2017 Toyota Prius

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allen Bert Cole

Represented By
Raymond J Bulaon

Joint Debtor(s):

Elisa L Cole

Represented By
Raymond J Bulaon

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:09-37653 Debi Jo Killian

Chapter 7

#9.00 Motion for Order Confirming Personal Injury Award is Exempt and Not Part of Bankruptcy Estate

EH ____

Docket 21

***** VACATED *** REASON: CONTINUED TO 4/10/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Debi Jo Killian

Represented By
Gregory J Doan
Michael H Raichelson

Movant(s):

Debi Jo Killian

Represented By
Gregory J Doan
Michael H Raichelson

Trustee(s):

John P Pringle (TR)

Represented By
Michelle A Marchisotto

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:14-14377 Hilary D Hill

Chapter 7

#10.00 Trustee's Final Report and Applications for Compensation

EH ____

Docket 91

Tentative Ruling:

01/09/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the Applications of the associated professionals, the following administrative claims will be allowed:

Trustee Fees: \$ 6,309.31
Trustee Expenses: \$ 35.41

Attorney Fees: \$48,997.45
Attorney Costs: \$1,441.84

Accountant Fees: \$2,533.98
Accountant Costs: \$16.45

The applications for compensation are approved and the trustee and associated professionals may submit on the tentative.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Hilary D Hill

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

CONT... Hilary D Hill

Chapter 7

Matthew D. Resnik
David Brian Lally

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Elizabeth A LaRocque

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:14-18549 Matthew Joseph Pautz and Alice Louise Pautz

Chapter 7

#11.00 Trustee's Final Report and Applications for Compensation

EH ____

Docket 224

Tentative Ruling:

TENTATIVE RULING

01/09/2019

No opposition has been filed.

Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the Applications of the associated professionals, the following administrative claims will be allowed:

Trustee Fees: \$ 3,537.32

Trustee Expenses: \$ 446.56

Attorney Fees: \$62,865.47

Attorney Costs: \$8,391.01

Accountant Fees: \$2,282.17

Accountant Costs: \$625.26

The applications for compensation are approved and the trustee and associated professionals may submit on the tentative.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

CONT... Matthew Joseph Pautz and Alice Louise Pautz

Chapter 7

Debtor(s):

Matthew Joseph Pautz

Represented By
Todd L Turoci

Joint Debtor(s):

Alice Louise Pautz

Represented By
Todd L Turoci

Trustee(s):

Karl T Anderson (TR)

Represented By
Leonard M Shulman
Melissa Davis Lowe
Samuel J Romero

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:15-18989 Yesenia Ferguson

Chapter 7

#12.00 Motion To Remedy Willful Violation of the Automatic Stay, Discharge Injunction by the Department of Veteran's Affairs and for Damages, Actual Damages, Punitive Damages (Should the Court Deem Appropriate), And Attorney's Fees

From: 12/19/18

EH__

Docket 14

***** VACATED *** REASON: ORDER ENTERED 12/21/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yesenia Ferguson

Represented By
David L Nelson

Movant(s):

Yesenia Ferguson

Represented By
David L Nelson

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:16-19799 Jaison Vally Surace

Chapter 7

#13.00 Trustee's Final Report and Applications for Compensation

EH__

Docket 90

Tentative Ruling:

01/09/2019

No opposition has been filed.

Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the Applications of the associated professionals, the following administrative claims will be allowed:

Trustee Fees: \$ 29,539.94

Trustee Expenses: \$ 384.63

Attorney Fees: \$70,640

Attorney Costs: \$3,099.49

Accountant Fees: \$7,464

Accountant Costs: \$186.25

The applications for compensation are approved and the trustee and associated professionals may submit on the tentative.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

CONT... Jaison Vally Surace

Chapter 7

Debtor(s):

Jaison Vally Surace

Represented By
Batkhand Zoljargal
Jeremy J Alberts

Trustee(s):

John P Pringle (TR)

Represented By
Todd A Frealy
Carmela Pagay
Anthony A Friedman

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:16-19947 Melissa Lynn Dixson

Chapter 7

#14.00 Motion to Reopen Bankruptcy Case for Violation of Discharge Injunction under 11 U.S.C. Sec. 524 (Ch 7)

Also #15

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melissa Lynn Dixson

Represented By
Bryant C MacDonald

Movant(s):

Melissa Lynn Dixson

Represented By
Bryant C MacDonald

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:16-19947 Melissa Lynn Dixon

Chapter 7

#15.00 Show Cause Hearing RE: [13] Motion For Contempt Violation Discharge Order

Also #14

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melissa Lynn Dixon

Represented By
Bryant C MacDonald

Movant(s):

Melissa Lynn Dixon

Represented By
Bryant C MacDonald

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:17-15809 Beatrice A Diaz

Chapter 7

#16.00 Chapter 7 Trustees Notice of Motion and Motion for Order: (1) Requiring Debtor to Immediately Turn Over the Real Property Located at 619 Calle Cuesta, Watsonville, California 95076; and (2) Provide Unfettered Access to Said Real Property

EH__

Docket 71

Tentative Ruling:

01/09/2019

BACKGROUND

On July 12, 2017 ("Petition Date"), Beatrice Diaz ("Debtor") filed her petition for chapter 7 relief. Arturo Cisneros is the duly appointed chapter 7 trustee ("Trustee"). Among the assets of the Debtor's estate is the Debtor's principal residence located at 619 Calle Cuesta in Watsonville, CA (the "Property").

On May 22, 2018, in a related adversary proceeding with Case No. 6:17-01287-MH, the Trustee obtained a default judgment (the "Judgment") against the Debtor's non-filing spouse, Jose Diaz ("Diaz"), adjudicating the Property as community property, property of the Debtor's estate, and requiring Diaz to turn the Property over to the Trustee. The Trustee believes there is \$300,000 in equity in the Property. The Court's Claims Register currently shows claims filed in the case totaling \$123,261.04.

On June 21, 2018, the Debtor filed a motion to convert her case to a case under chapter 13. The Court set a hearing on the Debtor's motion to convert which was denied at the hearing based on the Debtor's failure to appear and for the reasons indicated in the Trustee's opposition to the Motion.

On December 12, 2018, the Trustee filed a Motion for Order: (1) Requiring Debtor to Immediately Turn Over the Real Property Located at 619 Calle Cuesta, Watsonville, California 95076; and (2) Provide Unfettered Access to Said Real Property (the "Motion"). The Trustee asserts that his counsel and real estate broker

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

CONT...

Beatrice A Diaz

Chapter 7

have been unsuccessful in their attempts to obtain access to the Property. The failure of cooperation prompted the filing of the instant Motion. Service appears proper and no opposition has been filed.

DISCUSSION

The Trustee seeks an order directing the Debtor and any third parties under the Debtor's control to immediately turn over the Property, and requiring the Debtor to provide the Trustee and/or his real estate agents with unfettered access to the Property for marketing of the Property during reasonable hours 7 days a week.

Bankruptcy Code Section 542(a) provides that:

Except as provided in subsection (c) or (d) of this section, 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, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

11 U.S.C. § 542(a).

Here, the Debtor has filed no opposition or response to the Motion. There is no dispute that the Property is property of the Debtor's estate and that the Trustee is entitled to access to the Property in order to carry out his statutory duty to administer the asset. Based on the Trustee's Motion, in conjunction with the Trustee's declaration establishing the failure of the Debtor to respond to communications regarding the Property, the Judgment also ordering turnover by the Debtor's non-filing spouse, the Trustee has sufficiently established the need for a turnover order.

TENTATIVE RULING

Based on the foregoing, the Court is inclined to order turnover on the terms

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

CONT... **Beatrice A Diaz**
requested by the Trustee.

Chapter 7

APPEARANCES WAIVED. Movant to lodge an order within 7 days.

Party Information

Debtor(s):

Beatrice A Diaz

Pro Se

Movant(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

Trustee(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:18-10971 Ryan James Masalcas

Chapter 7

#17.00 Trustee's Final Report and Applications for Compensation

EH__

Docket 44

Tentative Ruling:

01/09/2019

No opposition has been filed.
Service was Proper.

The Trustee's Final Report has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the following administrative claims are allowed:

Trustee Fees: \$ 690.89
Trustee Expenses: \$ 182.06

The Trustee may submit on the tentative.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Ryan James Masalcas

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:18-17431 James Michael Gorman

Chapter 7

#18.00 Motion for extension of time to file a complaint objecting to discharge

EH__

Docket 14

Tentative Ruling:

01/09/2019

TENTATIVE RULING

James Gorman ("Debtor") filed his chapter 7 petition on August 31, 2018. The deadline to object to the Debtor's discharge was set for December 3, 2018. On November 30, 2018, the Office of the United States Trustee ("UST") filed the instant motion to extend time for filing of discharge and dismissal deadlines to February 28, 2019 ("Motion"). In support, the UST has provided evidence demonstrating that the UST requested financial records from the Debtor. The Debtor submitted a partial response and had not fully complied with the request prior to the filing of the Motion. Pursuant FRBP 4004(b), the UST has established that cause exists to permit an extension of the discharge and dismissal deadlines.

Based on the foregoing, including the failure to file any opposition or response by the Debtor, the Court is inclined to GRANT the Motion in its entirety, extending the discharge and dismissal deadlines for approximately ninety days, to February 28, 2019.

APPEARANCES WAIVED. Movant to lodge an order within 7 days.

Party Information

Debtor(s):

James Michael Gorman

Represented By
Timothy W Combs

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

CONT... James Michael Gorman

Chapter 7

Movant(s):

United States Trustee (RS)

Represented By
Everett L Green

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

11:00 AM

6:18-19314 Irma Doreen Fero

Chapter 7

#19.00 Motion For Order Compelling Attorney To File Disclosure Of Compensation Pursuant To 11 U.S.C. § 329 And Federal Rule Of Bankruptcy Procedure 2016

EH ____

Docket 12

***** VACATED *** REASON: ORDER ENTERED 12/13/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Irma Doreen Fero

Represented By
Seema N Sood

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

2:00 PM

6:11-34566 Jeffrey Steven Dean

Chapter 7

Adv#: 6:18-01219 Barclay, Chapter 7 Trustee v. INTERNAL REVENUE SERVICE, A U.S.

#20.00 Status Conference RE: [1] Adversary case 6:18-ap-01219. Complaint by Christopher R. Barclay, Chapter 7 Trustee against INTERNAL REVENUE SERVICE, A U.S. AGENCY. (Charge To Estate - \$350.00). (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)) (Lissebeck, Yosina)

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 11/16/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey Steven Dean

Represented By
Bryant C MacDonald

Defendant(s):

INTERNAL REVENUE SERVICE,

Pro Se

Plaintiff(s):

Christopher R. Barclay, Chapter 7

Represented By
Yosina M Lissebeck

Trustee(s):

Christopher R Barclay (TR)

Represented By
Yosina M Lissebeck
Michael D Breslauer

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01102 PRINGLE v. Capital One Bank (USA), National Association

#21.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01102. Complaint by JOHN PRINGLE against Capital One Bank (USA), National Association. (Charge To Estate \$350.00). Complaint for: (1) Avoidance of Transfers Pursuant to 11 U.S.C. § 544(b) and Cal. Civ. Code §§ 3439.04(a)(2), 3439.05; (2) Avoidance of Transfers Pursuant to 11 U.S.C. § 548(a)(1)(B); (3) Recovery of Avoided Transfers Pursuant to 11 U.S.C. § 550; and (4) Disallowance of Claims Pursuant to 11 U.S.C. § 502 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

From: 9/5/18, 11/7/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/13/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Capital One Bank (USA), National

Represented By
Kevin M Eckhardt

Plaintiff(s):

JOHN PRINGLE

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

2:00 PM

CONT...

Home Security Stores, Inc.

Charity J Manee

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01213 Pringle v. JPMorgan Chase Bank, National Association dba Chas

#22.00 Status Conference RE: [1] Adversary case 6:18-ap-01213. Complaint by John Pringle against JPMorgan Chase Bank, National Association dba Chase Bank, Chase Bank USA, National Association. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

JPMorgan Chase Bank, National

Represented By
Christopher O Rivas

Chase Bank USA, National

Represented By
Christopher O Rivas

Plaintiff(s):

John Pringle

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01214 Pringle v. Histen, APC et al

#23.00 Status Conference RE: [1] Adversary case 6:18-ap-01214. Complaint by John Pringle against Harry J Histen, APC, Harry J Histen, III. (Charge To Estate - \$350.00). Complaint for: (1) Avoidance of Transfers Pursuant to 11 U.S.C. § 544(b) and Cal. Civ. Code §§ 3439.04(a)(2), 3439.05; (2) Avoidance of Transfers Pursuant to 11 U.S.C. § 548(a)(1)(B); (3) Recovery of Avoided Transfers Pursuant to 11 U.S.C. § 550; and (4) Disallowance of Claims Pursuant to 11 U.S.C. § 502 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Goe, Robert)

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/6/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Harry J Histen, APC

Pro Se

Harry J Histen, III

Pro Se

Plaintiff(s):

John Pringle

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

2:00 PM

CONT... Home Security Stores, Inc.

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 9, 2019

Hearing Room 303

2:00 PM

6:18-16905 Tina M Coca

Chapter 7

Adv#: 6:18-01216 Addison v. Coca

#24.00 Status Conference RE: [1] Adversary case 6:18-ap-01216. Complaint by Chelsea Addison against Tina M Coca. willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))),02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)))

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tina M Coca

Represented By
Emilia N McAfee

Defendant(s):

Tina M Coca

Pro Se

Plaintiff(s):

Chelsea Addison

Represented By
David C Parisi
Ethan M Preston

Trustee(s):

Robert Whitmore (TR)

Pro Se

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6:18-16831 Young Jin Yoon

Chapter 7

Adv#: 6:18-01210 Kim v. Yoon et al

#25.00 Status Conference Re: [1] Adversary case 6:18-ap-01210. Complaint by Vivian Kim against Young Jin Yoon, Hyunmyung Park, Joshua Park. false pretenses, false representation, actual fraud, 72 - Injunctive relief - other, 13 - Recovery of money/property - 548 fraudulent transfer, 68 - Dischargeability - 523(a)(6), willful and malicious injury

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Young Jin Yoon

Represented By
Ji Yoon Kim

Defendant(s):

Young Jin Yoon

Represented By
Ji Yoon Kim

Hyun Myung Park

Represented By
Ji Yoon Kim

Joshua Park

Represented By
Ji Yoon Kim

Plaintiff(s):

Vivian Kim

Represented By
Jiyoung Kym

Trustee(s):

Robert Whitmore (TR)

Pro Se

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6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01100 Zamucen & Curren LLP v. Johnson

#26.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01100. Complaint by Zamucen & Curren LLP against Vance Zachary Johnson . (d),(e))

From: 7/31/18, 10/3/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/30/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Zamucen & Curren LLP

Represented By
Patricia J Grace

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

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6:17-15809 Beatrice A Diaz

Chapter 7

Adv#: 6:17-01287 Cisneros v. Diaz

#27.00 Chapter 7 Trustee and Plaintiffs Notice of Motion and Motion for Issuance of Writ of Possession as against Jose L. Diaz to Obtain Possession of the Real Property Located at 619 Calle Cuesta, Watsonville, California 95076

EH__

Docket 29

Tentative Ruling:

01/09/2019

BACKGROUND

On July 12, 2017 ("Petition Date"), Beatrice Diaz ("Debtor") filed her petition for chapter 7 relief. Arturo Cisneros is the duly appointed chapter 7 trustee ("Trustee"). Among the assets of the Debtor's estate is the Debtor's principal residence located at 619 Calle Cuesta in Watsonville, CA (the "Property").

On May 22, 2018, the Trustee obtained a default judgment (the "Judgment") against the Debtor's non-filing spouse, Jose Diaz ("Diaz"), adjudicating the Property as community property, property of the Debtor's estate, and requiring Diaz to turn the Property over to the Trustee. The Trustee believes there is \$300,000 in equity in the Property. The Court's Claims Register currently shows claims filed in the case totaling \$123,261.04.

On December 12, 2018, the Trustee filed the instant Motion for Issuance of Writ of Possession against Diaz ("Motion"). Service appears proper and no opposition was filed.

TENTATIVE RULING

The Trustee has provided sufficient evidence to establish that Diaz has not responded to requests from the Trustee to effectuate this Court's Judgment requiring

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CONT...

Beatrice A Diaz

Chapter 7

turnover of the Property. Based on the failure of Diaz to comply with the Court's Judgment and failure to file any opposition or response to the Motion, the Court finds that an order authorizing issuance of a writ of possession authorizing the Trustee to engage the United States Marshal to enforce the Judgment falls squarely within the § 105 language authorizing bankruptcy courts to issue any order necessary to carry out the provisions of the Code. Based on the foregoing, the Court is inclined to GRANT the Trustee's request.

APPEARANCES WAIVED. Movant to lodge an order within 7 days.

Party Information

Debtor(s):

Beatrice A Diaz

Pro Se

Defendant(s):

Jose L Diaz

Pro Se

Movant(s):

Arturo M. Cisneros

Represented By
Anthony A Friedman

Plaintiff(s):

Arturo M. Cisneros

Represented By
Anthony A Friedman

Trustee(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

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6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#28.00 CONT Status Conference on Complaint filed on 3/1/18 to Determine Dischargeability of Debt Pursuant to 11 USC 523(a)(6)

From: 5/3/18, 8/2/18, 8/29/18, 12/5/18

Also #29

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/16/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

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CONT... Robert Lee Thompson, Jr.

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#29.00 CONT Status Conference RE: Counterclaim [19] Answer to Complaint and Affirmative Defenses to Complaint to Determine Dischargeability Pursuant to 11 U.S.C. §523(a)(6) and COUNTERCLAIM of Shatara Adrienne Thompson for Defamation, Counterclaim by Robert Lee Thompson Jr, Shatara Adrienne Thompson against Beatriz M Gutierrez

From: 8/2/18, 8/29/18, 12/5/18

Also #28

EH__

Docket 19

***** VACATED *** REASON: CONTINUED TO 1/16/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

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CONT... Robert Lee Thompson, Jr.

Chapter 7

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:16-15813 John E. Tackett

Chapter 7

Adv#: 6:18-01138 Speier v. Conestoga Settlement Services, LLC et al

#30.00 Motion for Judgment on the Pleadings Pursuant to FRCP 12(c)

Also #31

EH ____

Docket 56

Tentative Ruling:

01/09/2019

BACKGROUND

On June 20, 2018, Steven Speier, the duly appointed chapter 7 trustee ("Trustee") for the estate of John and Ellen Tackett (collectively, "Debtors" or "Tacketts"), filed a complaint alleging claims for breach of written contract, rescission and restitution for fraud, money had and received, unjust enrichment, fraud, negligent misrepresentation, negligence, rescission and restitution for sale of unqualified securities, damages for sale of unqualified securities, rescission for securities misrepresentation, damages for securities misrepresentation, contempt for willful violation of the stay, and elder financial abuse (the "Complaint") against various defendants, inclusive of Defendants DE LEON WASHBURN & WARD, P.C. f/k/a DE LEON & WASHBURN, P.C., THOMAS WASHBURN, and HECTOR DE LEON (collectively, the "De Leon Defendants").

On October 15, 2018, the De Leon Defendants file their answer to the Complaint ("Answer"), and on November 27, 2018, the filed a motion for judgment on the pleadings (the "MJOP"). The Trustee filed his opposition on December 26, 2018, and the De Leon Defendants filed their reply on January 2, 2019 ("Reply").

The Complaint generally alleges the following:

- The majority of the Debtors' savings comprised \$250,000 received from the sale of Ellen Tackett's mother's house, which Ellen Tackett had inherited;
- The Debtors sold Amway products;

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John E. Tackett

Chapter 7

- During one of their trips to an Amway convention, the Debtors met Jeff Converse;
- Jeff Converse spoke to the Debtors about opportunities to make investments with Conestoga;
- Conestoga is in the business of entering into life settlement contracts to acquire life insurance policies. When the insureds die, the purchaser receives the death benefit and investors are paid out the positive returns, if any;
- Converse had conversations with the Tacketts to persuade them to invest in the Conestoga business;
- The Tacketts were asked to sign the contract without having been given sufficient time to read or review the documents. The Tacketts eventually paid the full amount of their \$250,000 savings into the Conestoga investment;
- The De Leon Defendants are alleged to have acted in their capacity as counsel to Conestoga for the structuring of the transactions which Trustee alleges were improper, and that they conspired with Conestoga to facilitate non-accredited investors to sign disclosures concerning their accreditator-investor status and that such acts were undertaken with the intent to deceive or defraud

DISCUSSION

The De Leon Defendants assert that the one-year statute of limitations period under California Civil Procedure Code § 340.6 applies to the claims brought against the De Leon Defendants in the Complaint, and on that basis argue that the claims are time-barred.

Judgment on the Pleadings

"Judgment on the pleadings is proper when, taking all allegations in the pleadings as true and construed in the light most favorable to the nonmoving party, the moving party is entitled to judgment as a matter of law." *Living Designs, Inc. v. E.I.*

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Dupont de Nemours & Co., 431 F.3d 353, 360 (9th Cir.2005). In other words, a motion for judgment on the pleadings is evaluated under the same standards as a motion to dismiss for failure to state a claim under Civil Rule 12(b)(6), and dismissal pursuant to Civil Rule 12(c) is inappropriate if the facts as pled would entitle the plaintiff to a remedy. *Merchs. Home Delivery Serv., Inc. v. Hall & Co.*, 50 F.3d 1486, 1488 (9th Cir.1995).

In ruling on a motion for a judgment on the pleadings, the bankruptcy court need not accept as true unreasonable inferences or conclusory legal allegations cast in the form of factual allegations. *See W. Mining Council v. Watt*, 643 F.2d 618, 624 (9th Cir.1981). In addition, the court does not have to accept as true conclusory allegations that contradict facts that may be judicially noticed or that are contradicted by documents referred to in the complaint. *See, e.g., Steckman v. Hart Brewing Inc.*, 143 F.3d 1293, 1295–96 (9th Cir.1998).

The bankruptcy court may dispose of a case under Civil Rule 12 by reference to documents "whose contents are alleged in a complaint and whose authenticity no party questions" without treating the motion as one for summary judgment. *Parrino v. FHP, Inc.*, 146 F.3d 699, 705–06 (9th Cir.1998).

Finally, when considering a motion for judgment on the pleadings, the bankruptcy court "may consider facts that 'are contained in materials of which the court may take judicial notice.'" *Heliotrope Gen., Inc. v. Ford Motor Co.*, 189 F.3d 971, 981 n. 18 (9th Cir.1999); *see also MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir.1986) (court may take judicial notice of "matters of public record" without converting a motion to dismiss into a motion for summary judgment).

Application of Section 340.6

Code of Civil Procedure section 340.6, subdivision (a) (hereafter section 340.6(a)) provides: "An action against an attorney for a wrongful act or omission, other than for actual fraud, arising in the performance of professional services shall be commenced within one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the facts constituting the wrongful act or omission...."

The De Leon Defendants argue that §340.6 applies when, as here, the acts of the attorneys which are alleged to be improper depend upon a showing that the attorneys breached their professional obligations.

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The Court agrees with the parties that the resolution to this issue turns on the Court's examination of the facts of this case, in light of *Lee v. Hanley*, 61 Cal. 4th 1225, 1229, 354 P.3d 334, 336 (2015) (holding that § 340.6 did not bar plaintiff's fee dispute claim that attorney refused to return unearned attorney's fees, because the claim could also be construed as conversion), and *ESG Capital Partners, LP v. Stratos*, 828 F.3d 1023, 1036 (9th Cir. 2016) (holding that one-year statute of limitations for conduct falling within scope of legal services applied only to breach of fiduciary duty claim). In *ESG*, the Ninth Circuit explained the scope of § 340.6, as set forth by the Supreme Court of California as follows:

The California Supreme Court has explained that § 340.6 does not apply merely because an attorney's alleged misconduct "occurs during the period of legal representation or because the representation brought the parties together and thus provided the attorney the opportunity to engage in the misconduct." ... The court in *Lee* recognized that attorneys often have the same obligations as nonattorneys and explained that the question is "not simply whether a claim alleges misconduct that entails the violation of a professional obligation. Rather, the question is whether the claim, in order to succeed, necessarily depends on proof that an attorney violated a professional obligation."

ESG, F.3d at 1023, 1036 (internal citations omitted).

ESG, in turn, considered whether claims for conversion, breach of fiduciary duty, unjust enrichment, and unfair competition "necessarily depend on proof that [the attorneys] violated a professional obligation in the course of providing professional services." *Id.* at 1037. The Ninth Circuit considered each claim and whether the claims necessarily involved the violation of a professional obligation before determining that only the breach of fiduciary duty claim was subject to the one-year statute of limitations. The Ninth Circuit also indicated that it was not dispositive whether the claims arise from the attorney-client relationship itself. Here, the state law claims asserted against the De Leon Defendants are the Eighth Claim for Relief (damages for sale of unqualified securities), the Ninth Claim for Relief (rescission: securities: misrepresentation), and the Tenth Claim for Relief (damages: securities: misrepresentation).

Here, the De Leon Defendants assert that the state law claims must be time barred because they "are based entirely on the De Leon Defendants' performance of professional services for their client, Conestoga ... and that they provided material assistance through structuring the transactions for Conestoga." (Mot. at 6:9-14).

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CONT... **John E. Tackett**

Chapter 7

However, the De Leon Defendants ignore that the Complaint goes further than alleging mere preparation of documents and furnishing of professional services. The Complaint alleges that beyond simply structuring the transactions, that the De Leon Defendants knew Conestoga's practice was to sell unregistered securities through unregistered agents and knew that the victims would be induced to sign disclosures concerning accredited-investor status, and finally, that the De Leon Defendants conspired with Conestoga to facilitate non-accredited investors signing the documents. (Compl. at ¶¶ 112, 118, and 125). A review of the California Corporation codes at issue underscore that the claims asserted by the Trustee provide relief related to the unlawful sale of securities based on misrepresentations. That the services provided by the De Leon Defendants were legal in nature are not dispositive because the claims themselves do not necessarily depend on proof that the De Leon Defendants violated a professional obligation. Instead, the securities claims asserted by the Trustee are focused on the misrepresentations related to the sale of securities, and the allegations of the Complaint appear to also focus on the De Leon Defendants' knowledge that misrepresentations were made, as well as their alleged conspiratorial relationship with Conestoga in structuring the life settlement contracts. Absent from the Motion is any analysis of the actual claims asserted by the Trustee and discussion of whether the claims depend upon a showing that an attorney violated a professional obligation.

TENTATIVE RULING

For the foregoing reasons, finding that the Trustee's claims do not fall within California's § 340.6 statute of limitations, the Court is inclined to DENY the Motion in its entirety. The Court need not determine at this time when the applicable statute of limitations under the California Corporations Code began to run as to the Debtors and declines to do so.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

John E. Tackett

Represented By
Stefan R Pancer

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Defendant(s):

Michael McDermott	Pro Se
Michael Woods	Pro Se
Hector De Leon	Represented By Jasmin Yang David D Samani
Thomas Washburn	Represented By Jasmin Yang David D Samani
Jeff Converse	Pro Se
Provident Trust Group, LLC	Represented By Marshall J Hogan
Conestoga Trust	Represented By Charles Miller
Conestoga International Holdings,	Represented By Charles Miller
Conestoga Settlement Services, LLC	Represented By Charles Miller
De Leon & Washburh, P.C.	Represented By Jasmin Yang David D Samani

Joint Debtor(s):

Ellen O. Tackett	Represented By Stefan R Pancer
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Movant(s):

De Leon & Washburh, P.C.	Represented By Jasmin Yang David D Samani
Thomas Washburn	Represented By

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Hector De Leon

Jasmin Yang
David D Samani

Represented By
Jasmin Yang
David D Samani

Plaintiff(s):

Steven M Speier

Represented By
Thomas J Eastmond
Robert P Goe

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

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6:16-15813 John E. Tackett

Chapter 7

Adv#: 6:18-01138 Speier v. Conestoga Settlement Services, LLC et al

#31.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01138. Complaint by Steven M Speier against Conestoga Settlement Services, LLC, Conestoga International Holdings, LLC, Conestoga Trust, Provident Trust Group, LLC, De Leon & Washburh, P.C., Thomas Washburn, Hector De Leon, Jeff Converse, Michael Woods, Michael McDermott. (Charge To Estate). Complaint for: (1) Breach of Written Contract; (2) Rescission and Restitution for Fraud; (3) Money Had and Received; (4) Unjust Enrichment; (5) Fraud; (6) Negligent Representation; (7) Negligence; (8) Rescission and Restitution for Sale of Unqualified Securities [Cal. Corp. §25503]; (9) Damages for Sale of Unqualified Securities [Cal. Corp. §25503]; (10) Rescission: Securities: Misrepresentation [Cal. Corp. §25501]; (11) Damages: Securities: Misrepresentation [Cal. Corp. § 25501]; (12) Contempt for Willful Violation of Automatic Stay Pursuant to 11 U.S.C. § 105; and (13) Elder Financial Abuse [Cal. Welf. & Inst. Code § 15600 et seq.] Nature of Suit: (14 (Recovery of money/property - other)) (Eastmond, Thomas)

From: 8/29/18, 11/28/18

Also #30

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John E. Tackett

Represented By
Stefan R Pancer

Defendant(s):

Conestoga Settlement Services, LLC

Represented By

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John E. Tackett

Chapter 7

	Charles Miller
Conestoga International Holdings,	Represented By Charles Miller
Conestoga Trust	Represented By Charles Miller
Provident Trust Group, LLC	Represented By Marshall J Hogan
De Leon & Washburh, P.C.	Represented By Jasmin Yang David D Samani
Thomas Washburn	Represented By Jasmin Yang David D Samani
Hector De Leon	Represented By Jasmin Yang David D Samani
Jeff Converse	Pro Se
Michael Woods	Pro Se
Michael McDermott	Pro Se

Joint Debtor(s):

Ellen O. Tackett	Represented By Stefan R Pancer
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Plaintiff(s):

Steven M Speier	Represented By Thomas J Eastmond Robert P Goe
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Trustee(s):

Steven M Speier (TR)	Represented By Robert P Goe
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John E. Tackett

Thomas J Eastmond

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6:16-13096 Tarek El Sayed Ayoub

Chapter 7

Adv#: 6:16-01219 Candee et al v. Ayoub et al

#32.00 Motion For Summary Judgment

Also #33

EH ____

Docket 21

Tentative Ruling:

01/09/2019

BACKGROUND

On April 6, 2016, Tarek and Gabriela Ayoub (collectively, "Debtors") filed a Chapter 11 voluntary petition. On April 12, 2016, Debtors' case was dismissed for failure to file initial petition documents. On April 13, 2016, Debtors filed a motion to vacate dismissal; that motion was granted on April 15, 2016. On May 4, 2016, Debtors' case was again dismissed for failure to file schedules, statements, and/or plan. Two days later, Debtors filed a second motion to vacate dismissal; on May 26, 2016, the second motion to vacate dismissal was granted. On October 27, 2016, the Debtors moved to convert their case to a case under chapter 7. The case was converted on October 31, 2016. Among the creditors of the Debtors' estate are Keith Candee and Original Thurber Ranch, LLC (collectively, "Candee Parties" or "Plaintiffs").

On August 26, 2016, the Candee Parties filed a complaint to determine dischargeability of debt pursuant to 11 U.S.C. § 523(a)(6) ("Complaint"). The Complaint generally alleges that the Candee Parties held validly recorded easements which burdened the Debtors' property. The Complaint further alleges that despite their knowledge of the validity of the easements, the Debtors interfered with the Candee Parties' use of the easements, trespassed on the Plaintiffs' property, committed unlawful acts of violence, threatened the Plaintiffs, and placed a fence to attempt to exercise domain over the disputed property.

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CONT... Tarek El Sayed Ayoub

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On June 10, 2015, the Superior Court of California in the County of Riverside (the "State Court") rendered Judgment ("Judgment") in favor of the Plaintiffs in the state court action entitled *Gabriela Ayoub v. Keith H. Candee* and related cross-action, Case No. MCC1301436 (the "State Court Action"). The Debtors both participated in the State Court Action and were represented by counsel. The State Court's Judgment was supported by a statement of decision setting forth its factual findings and conclusions of law (the "Decision"). The Decision makes clear that the grounds for damages was based on findings that the Debtors committed intentional torts of conversion, trespass, and private nuisance interfering with easements.

On November 21, 2018, the Plaintiffs filed a Motion for Summary Judgment (the "Motion"). The Debtors filed their response on December 19, 2018 ("Response"), and the Plaintiffs filed their reply to the Response on December 26, 2018 ("Reply").

DISCUSSION

Issue preclusion may provide a proper basis for granting summary judgment. *San Remo Hotel, L.P. v. San Francisco City and Cnty.*, 364 F.3d 1088, 1094 (9th Cir.2004). To meet its burden on a motion for summary judgment based on issue preclusion, the proponent must have pinpointed the exact issues litigated in the prior action and introduced a record establishing the controlling facts. *Honkanen v. Hopper (In re Honkanen)*, 446 B.R. 373, 382 (9th Cir. BAP2011); *Kelly v. Okoye (In re Kelly)*, 182 B.R. 255, 258 (9th Cir. BAP1995).

Issue preclusion may apply in bankruptcy discharge proceedings. *Grogan v. Garner*, 498 U.S. 279, 284 (1991). The preclusive effect of a state court judgment in a subsequent federal lawsuit generally is determined by the Full Faith and Credit Act, 28 U.S.C. § 1738, which provides that state judicial proceedings "shall have the same full faith and credit in every court within the United States ... as they have by law or usage in the courts of such State ... from which they are taken." *Marrese v. Am. Academy of Orthopaedic Surgeons*, 470 U.S. 373, 380 (1985). When state preclusion law controls, the decision to apply the doctrine is made in accordance with state law. *Khaligh v. Hadegh (In re Khaligh)*, 338 B.R. 817, 823 (9th Cir. BAP2006), *aff'd*, 506 F.3d 956 (9th Cir.2007).

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Under California law, the party asserting issue preclusion has the burden of establishing the following threshold requirements:

- (1) The issue sought to be precluded from relitigation must be the *identical issue* to that decided in a former proceeding;
- (2) This issue must have been *actually litigated* in the former proceeding;
- (3) It must have been *necessarily decided* in the former proceeding;
- (4) The decision in the former proceeding must be *final and on the merits*; and
- (5) The party against whom preclusion is sought must be the *same party* as, or in privity with, the party to the former proceeding.

Harmon v. Kobrin (In re Harmon), 250 F.3d 1240, 1245 (9th Cir.2001) (citing *Lucindo v. Super. Ct.*, 795 P.2d 1223, 1225 (Cal.1990))(emphasis added). These are known as the "*Harmon*" factors. But even if these five requirements are met, application of issue preclusion under California law requires a "mandatory 'additional' inquiry into whether imposition of issue preclusion would be fair and consistent with sound public policy." *Khaligh*, 338 B.R. at 824–25. "The purposes of the doctrine are to promote judicial economy by minimizing repetitive litigation, preventing inconsistent judgments which undermine the integrity of the judicial system and to protect against vexatious litigation." *Younan v. Caruso*, 51 Cal.App. 4th 401, 407 (1996).

I. WILLFUL INJURY (State of Mind)

To show that a debtor's conduct is willful requires proof that the debtor deliberately or intentionally injured the creditor, and that in doing so, the debtor intended the consequences of his act, not just the act itself. *Kawaauhau v. Geiger*, 523 U.S. 57, 60–61 (1998); *Carrillo v. Su (In re Su)*, 290 F.3d 1140, 1143 (9th Cir.2002). The debtor must act with a subjective motive to inflict injury, or with a belief that injury is substantially certain to result from the conduct. *In re Su*, 290 F.3d at 1143. "Debts arising from **recklessly** or **negligently** inflicted injuries do not fall within the compass of § 523(a)(6)." *Plyam* at 463 (quoting *Kawaauhau v. Geiger*)(emphasis added).

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Here, Exhibit 2 to the Motion contains the Decisions of the State Court. In that decision, the State Court Judge specifically determined that the Debtors committed intentional torts with malice and oppression towards Candee. The Decision goes on to state that the torts, which acts are detailed in the Decision itself, were committed with the specific "intent to cause injury to Candee". (Lieberg Decl. at Ex. 2, p 030, ¶ 49). It was further determined by the State Court that the damages awarded to Candee were reasonably related to the injury and harm caused by Debtors. Here, based on the Court's review of the State Court Decision and the Complaint filed in connection with the Debtors' bankruptcy, the Court finds that:

- The issue sought to be precluded from relitigation is identical to that decided in the State Court Action because the State Court specifically considered the Debtors' subjective intent in seeking to prevent Plaintiff's use of his easements and in connection with the state law causes of action (trespass, conversion, and private nuisance) identified above;
- The issue was actually litigated in the former proceeding and the Debtors were represented by counsel and both testified at the hearing;
- Willfulness was necessarily decided in the former proceeding as set forth in the State Court's Decision, there was a specific finding made as to the Debtors' intent to injure Candee;
- The decision in the former proceeding was final and on the merits and Plaintiffs provided evidence that on appeal, the Judgment was reversed as to a narrow issue not relevant here (Lieberg Decl. at Ex. 6) and that an amended judgment was entered by the Superior Court which did not change the amount of damages or disturb the findings related to the Debtors' intent or to the findings that the Debtors were liable for intentional torts of conversion and trespass (Note: California law regards private nuisance as a theory of damages that can be based in negligence or willfulness but here, the State Court's findings indicate clearly that underlying all of the causes of action was the intent to injure); and
- The party against whom preclusion is sought is the same party as, or in privity with, the party to the former proceeding.

Additionally, as required by California law, the Court has considered whether application of issue preclusion is fair and consistent with sound public policy and answers this question in the affirmative. The Debtors have advanced no argument that

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would justify setting aside the carefully considered findings of the State Court when they had a full and fair opportunity to litigate these issues in the State Court Action. The Debtors' currently pending action against their prior counsel for malpractice is insufficient to disturb the requirement that the Court afford full faith and credit to the State Court's Judgment. Indeed, should the Debtors prevail in their action they shall have remedies available to them as against their prior counsel. Issue preclusion is appropriate as to the issue of "willfulness" and the Court finds willfulness for purposes of § 523(a)(6) has been established.

II. MALICIOUS INJURY

For conduct to be malicious, the creditor must prove that the debtor: (1) committed a wrongful act; (2) done intentionally; (3) which necessarily causes injury; and (4) was done without just cause or excuse. *In re Su*, 290 F.3d at 1143.

Here, the Decision amply supports a finding that the Debtors actions were committed wrongfully, that they were done intentionally, that they caused injury to Candee, and that they were done without just cause or excuse. Indeed, the State Court found expressly that the Debtors committed various wrongful acts in an attempt to injure Plaintiff Candee and that their testimony at the trial was not credible. Having reviewed, the Decision in its entirety, the Court concludes that the Judgment resolved the issue of maliciousness and that for the reasons stated above with respect to the willfulness analysis, that the requirements for application of collateral estoppel are met regarding this issue. Issue preclusion is appropriate as to the issue of "malicious injury" and the Court finds that malice for purposes of § 523(a)(6) has been established.

III. DEBTOR OPPOSITION

The Debtors dispute the validity of the Judgment. However, their stated rationale that their prior counsel's signature on the Judgment renders it invalid because they have asserted a malpractice suit against her is insufficient as a matter of law. There is no legal argument or case presented to support a finding that the malpractice action would have any impact on the finality of the State Court's Judgment. To the contrary, the Court concurs with the Plaintiffs that the Judgment became final when the Court of Appeals made its ruling and after the time for appeal of the Court of Appeals' ruling lapsed. Next, the Debtors attempt to excise Gabriela

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Ayoub from the Decision. However, although the majority of findings regard Tarek Ayoub's wrongful acts, the Decision is clear that the State Court considered the Debtors to be acting in concert and as such, it makes repeated reference to the acts of the "Ayoub Parties" defined as including both Gabriela and Tarek Ayoub. Thus, the Debtors' argument that the Decision makes insufficient findings regarding Gabriela Ayoub is unavailing. Finally, the Debtors raise issues related to the Plaintiffs' forced sale of the Debtors' residence, however, these issues do not implicate or raise any cognizable basis to deny the motion which narrowly seeks a judgment declaring the State Court Judgment nondischargeable pursuant to § 523(a)(6).

TENTATIVE RULING

The Court's tentative ruling is to GRANT summary judgment in favor of the Plaintiffs.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Tarek El Sayed Ayoub

Represented By
Sherif Fathy

Defendant(s):

Tarek El Sayed Ayoub

Represented By
Todd L Turoci

Gabriela Villeda Ayoub

Represented By
Todd L Turoci

Joint Debtor(s):

Gabriela Villeda Ayoub

Represented By
Sherif Fathy

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Movant(s):

Keith H Candee

Represented By
Jon H Lieberg

Original Thurber Ranch LLC

Represented By
Jon H Lieberg

Plaintiff(s):

Keith H Candee

Represented By
Jon H Lieberg

Original Thurber Ranch LLC

Represented By
Jon H Lieberg

Trustee(s):

Wesley H Avery (TR)

Represented By
Larry D Simons

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6:16-13096 Tarek El Sayed Ayoub

Chapter 7

Adv#: 6:16-01219 Candee et al v. Ayoub et al

#33.00 CONT Status Conference Re: Complaint by Keith H Candee, Original Thurber Ranch LLC against Tarek El Sayed Ayoub, Gabriela Villeda Ayoub

From: 11/1/16, 6/7/17, 1/24/18, 1/31/18, 10/24/18

Also #32

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tarek El Sayed Ayoub

Represented By
Sherif Fathy

Defendant(s):

Tarek El Sayed Ayoub

Represented By
Todd L Turoci

Gabriela Villeda Ayoub

Represented By
Todd L Turoci

Joint Debtor(s):

Gabriela Villeda Ayoub

Represented By
Sherif Fathy

Plaintiff(s):

Keith H Candee

Represented By
Jon H Lieberg

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Original Thurber Ranch LLC

Represented By
Jon H Lieberg

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Trustee(s):

Wesley H Avery (TR)

Represented By
Larry D Simons

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11:00 AM

6:18-14867 Richard Cornelius

Chapter 13

Adv#: 6:18-01178 United States Of America v. Cornelius

#1.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01178. Complaint by United States Of America against Richard Cornelius. (Fee Not Required). Nature of Suit: (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)) (Levey, Elan)

From: 11/15/18

EH__

Docket 1

***** VACATED *** REASON: ORDER GRANTING STIPULATION FOR JUDGMENT FILED 12/20/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Cornelius

Represented By
Paul Y Lee

Defendant(s):

Richard Cornelius

Pro Se

Joint Debtor(s):

Naomi Rodriguez-Cornelius

Represented By
Paul Y Lee

Plaintiff(s):

United States Of America

Represented By
Elan S Levey

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:17-20473 Felipe Gerardo

Chapter 13

Adv#: 6:18-01225 Turoci et al v. Cuevas jr. et al

#2.00 Motion to Dismiss Adversary Proceeding

EH__

Docket 4

Tentative Ruling:

1/10/19

BACKGROUND

On December 22, 2017, Felipe Gerardo ("Debtor") filed a Chapter 13 voluntary petition. On March 6, 2018, Debtor's Chapter 13 plan was confirmed.

On November 16, 2018, Todd Turoci & Luis Torres (collectively, "Plaintiffs") filed an adversary complaint against Jamie Alberto Cuevas Jr., Gloria Valenzuela, Wagner Segura, and the Law Offices of Jamie A. Cuevas Jr. Inc. (collectively, "Defendants") for (1) tortious interference with business relations; (2) intentional interference with prospective economic relations; (3) negligent interference with prospective economic relations; (4) violations of Business and Professions Code § 17200 *et. seq.*; and (5) slander per se.

On December 12, 2018, Defendants filed a motion to dismiss pursuant to FED. R. CIV. P. Rule 12(b)(1), (6)¹, incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7012. Defendants argue that the Court lacks subject matter jurisdiction, and also assert that Plaintiffs committed fraud on the Court and should be sanctioned. On December 27, 2018, Plaintiffs filed their opposition.

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DISCUSSION

I. Subject Matter Jurisdiction

Prior to considering the merits of a complaint, this Court has an independent obligation to consider whether subject matter jurisdiction exists. *See, e.g., Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 93-95 (1998). If the Court concludes that it lacks subject matter jurisdiction, the Court must dismiss the complaint in its entirety. *See Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006). As conceded by Plaintiffs, the burden of demonstrating subject matter jurisdiction rests with Plaintiffs. *See, e.g., Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 378 (1994). Plaintiffs have clearly failed to carry that burden.

Defendants have taken the unusual, although not necessarily inappropriate, approach of primarily focusing on the subject matter jurisdiction of federal courts generally, rather than the more limited jurisdiction of bankruptcy courts. As noted by Defendants, the Constitution outlines the subject matter jurisdiction of federal courts. *See U.S. CONST. art. III, § 2*. The primary categories of jurisdiction are commonly referred to as "federal question" and "diversity of citizenship."

28 U.S.C. §§ 1331-1332 provides further guidance to federal courts jurisdiction over "federal questions" and cases involving "diversity of citizenship." Because it appears that all individuals subject to this litigation are citizens of California, or at least that Plaintiffs have not carried their burden in demonstrating otherwise, there is no federal jurisdiction on the basis of diversity of citizenship. Because none of the claims arise under federal law, there is no federal jurisdiction on the basis of federal question jurisdiction. While the Court is skeptical that it would be appropriate to find supplemental jurisdiction pursuant to 28 U.S.C. § 1367 in this adversary proceeding, the Court will assume, *arguendo*, that such jurisdiction exists and consider the jurisdiction of bankruptcy courts.

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28 U.S.C. § 157 provides for four categories of cases which the district court may refer to the bankruptcy court: (1) cases under title 11; (2) proceedings arising under title 11; (3) proceedings arising in a case under title 11; and (4) proceedings related to a case under title 11. *See, e.g., In re S&M Constructors, Inc.*, 144 B.R. 855, 858 (Bankr. W.D. Mo. 1992). Additionally, 28 U.S.C. § 157(b) divides matters into core and non-core proceedings.

The first category, cases under title 11, refers to the bankruptcy case commenced by the filing of the petition. *See, e.g., In re Wood*, 825 F.2d 90, 92 (5th Cir. 1987). This category is inapplicable here, as the matter at issue is an adversary proceeding.

The second category, proceedings arising under title 11, refers to those actions that are expressly created by title 11. *See, e.g., In re Wolverine Radio Co., Inc.*, 930 F.2d 1132, 1141, n.14 (6th Cir. 1991). This category is inapplicable here – the adversary proceeding is premised upon state law claims.

The third category², proceedings arising in a case under title 11, refers to claims that, although not created by title 11, would have no existence absent the bankruptcy, such as administrative matters. *See, e.g., In re Repository Techs., Inc.*, 601 F.3d 710, 719 (7th Cir. 2010). This category is inapplicable here.

The fourth category, proceedings related to a case under title 11, contains two different subsets: (1) causes of action owned by the debtor that become property of the estate under § 541; and (2) suits between third parties which in one way or another affect the administration of the bankruptcy case. *Id.* It is only the latter category that is potentially invoked by this proceeding.

The primary test for related to jurisdiction is the Third Circuit's *Pacor* test:

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The usual articulation of the test for determining whether a civil proceeding is related to bankruptcy is whether *the outcome of that proceeding could conceivably have any effect on the estate being administered in bankruptcy*. Thus, the proceeding need not necessarily be against the debtor or against the debtor's property. An action is related to bankruptcy if the outcome could alter the debtor's rights, liabilities, options, or freedom of action . . . and which in any way impacts upon the handling and administration of the bankrupt estate.

Pacor, Inc. v. Higgins, 743 F.2d 984, 994 (3rd Cir. 1984). The Supreme Court previously acknowledged the prevalence of the *Pacor* test:

In attempting to strike an appropriate balance, the Third Circuit in *Pacor, Inc. v. Higgins*, 743 F.2d 984 (1984), devised the following test for determining the existence of "related to" jurisdiction:

[Excerpt quoted above] . . .

The First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Eleventh Circuits have adopted the *Pacor* test with little or no variation. The Second and Seventh Circuits, on the other hand, seem to have adopted a slightly different test. But whatever test is used, these cases make clear that bankruptcy courts have no jurisdiction over proceedings that have no effect on the estate of the debtor.

Celotex Corp. v. Edwards, 514 U.S. 300, 308 n.6 (1995) (citations omitted).

The Ninth Circuit has recently reiterated its approval of the *Pacor* test for pre-confirmation matters:

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The test for post-confirmation "related to" jurisdiction was modified from the seminal pre-confirmation *Pacor* test for "related to" jurisdiction, which had been previously adopted by the Ninth Circuit in *In re Fietz*, 852 F.2d 455, 457 (9th Cir. 1988). Surveying the courts that had applied a limited version of the *Pacor* test in the post-confirmation context, we recognized that the *Pacor* test of whether the outcome of the proceeding could conceivably have any effect on the estate being administered in bankruptcy . . . If the outcome could alter the debtor's rights, liabilities, options, or freedom of action . . . and which in any way impacts upon the handling and administration of the bankruptcy estate was somewhat overbroad in the post-confirmation context.

In re Wilshire Courtyard, 729 F.3d 1279, 1287 (9th Cir. 2013) (citations and quotations omitted).

Here, the instant adversary proceeding does not have an "effect on the administration of the estate," as that phrase is defined by caselaw, because this action could not "alter the debtor's rights, liabilities, options, or freedom of action." *Pacor, Inc.* at 994. The instant adversary proceeding simply has no effect on Debtor whatsoever, and, as a result, is not related to the bankruptcy case under the *Pacor* test, let alone the more stringent post-confirmation test, the "close nexus" test, which requires that the action affect the interpretation, implementation, consummation, execution, or administration of the confirmed plan. See *In re Wilshire Courtyard*, 729 F.3d 1279, 1287 (9th Cir. 2013) (citing *In re Pegasus Gold Corp.*, 394 F.3d 1189, 1193-94 (9th Cir. 2005)).

In its opposition to the motion to dismiss, Plaintiffs raise, explicitly or implicitly, three arguments in support of their content that subject matter jurisdiction. First, to the extent that Plaintiffs argue that this adversary proceeding arises under title 11, such an argument is incorrect. A case arising under title 11 refers to those action which are expressly created by title 11. See, e.g., *In re Wolverine Radio Co., Inc.*, 930 F.2d 1132, 1141 n.14 (6th Cir. 1991). None of the claims brought by Plaintiffs are expressly created by title 11. Second, Plaintiffs argue that this Court has subject matter jurisdiction because the action affects the administration of Debtor's estate and is, therefore, related to a case arising under title 11. For the reasons stated in the above

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paragraph, the Court rejects this interpretation of related-to jurisdiction.

Finally, Plaintiffs argue that the Court has inherent jurisdiction over attorneys, citing Local Bankruptcy Rule 2090-2 in support of that contention. While it is true that the Court has jurisdiction over the employment of attorneys in bankruptcy cases, and possesses the jurisdiction to order certain coercive sanctions, the instant adversary proceeding simply does not fall within such jurisdiction. This action is a lawsuit between two attorneys. The fact that those attorneys practice in this Court does not provide the Court with jurisdiction to resolve their litigation over a business dispute which does not affect the bankruptcy case. Therefore, the Court is inclined to dismiss the action pursuant to FED. R. CIV. P. Rule 12(b)(1).

II. Fraud on the Court

In its motion to dismiss the complaint, Defendants request that the Court sanction Plaintiffs pursuant to 11 U.S.C. § 105(a) for committing fraud on the court.

11 U.S.C. § 105(a) states:

- (a) The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary to enforce or implement court orders or rules, or to prevent an abuse of process.

The Ninth Circuit in *Dyer* stated that "[c]ivil contempt authority allows a court to remedy a violation of a specific order." 322 F.3d 1178, 1196 (9th Cir. 2003). This Court has in the past, however, expressed skepticism that *Dyer* intended to limit the Court's § 105(a) power to only remedying violations of specific court orders because

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of the following.

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The Supreme Court, on two occasions after *Dyer*, has written an opinion which indicates that § 105 is not strictly limited to correcting violations of specific court orders. First, in *Marrama v. Citizens Bank of Mass.*, the Supreme Court wrote:

On the contrary, the broad authority granted to bankruptcy judges to take any action that is necessary or appropriate to prevent an abuse of process described in § 105(a) of the Code, is surely adequate to authorize an immediate denial of a motion to convert filed under § 706 in lieu of a conversion order that merely postpones the allowance of equivalent relief and may provide a debtor with an opportunity to take action prejudicial to creditors.

549 U.S. 365, 375 (2007) (footnote omitted). The "abuse of process" referenced in *Marrama* was not a violation of a specific court order, but, rather, "an unmeritorious attempt to qualify as a debtor under Chapter 13." *Id.*

Second, in *Law v. Siegel*, the Supreme Court stated: "Section 105(a) confers authority to 'carry out' the provisions of the Code." This statement is natural, since the first sentence of § 105(a) states: "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title."

Here, Defendants have not pointed to a specific and definite court order that has been violated. Nevertheless, the reconciliation of *Dyer* and *Marrama* helps illustrate the proper approach forward. The Ninth Circuit Court of Appeal's instructions that sanctions under § 105(a) are appropriate for violation of a specific and definite court order is derived from the non-bankruptcy standard for civil contempt. *See F.T.C. v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir. 1999) (quoting *Stone v. City & Cnty. of S.F.*, 968 F.2d 850, 856 n.9 (9th Cir. 1992)) ("The moving party has the burden of showing by clear and convincing evidence that the contemnors violated a specific and definite order of the court. The burden then shifts to the contemnors to demonstrate why they were unable to comply."). Nevertheless, as illustrated by *Marrama*, the

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Court's authority under § 105(a) is not strictly limited to issuing sanctions for civil contempt.

Here, however, Defendants are requesting sanctions pursuant to § 105(a). The Court is not persuaded that § 105(a) is the appropriate mechanism for Defendants' request. Therefore, the Court is inclined to deny Defendants request without prejudice to Defendants ability to renew the request, or file a separate motion under a different legal provision, requesting sanctions for the conduct described in the motion.

TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of dismissing the complaint for lack of subject matter jurisdiction pursuant to FED. R. CIV. P. Rule 12(b)(1). The Court is inclined to DENY Defendants' request for sanctions without prejudice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Felipe Gerardo

Represented By
Jaime A Cuevas Jr.

Defendant(s):

Jamie Alberto Cuevas jr.

Represented By
Nicholas W Gebelt

Gloria Valenzuela

Represented By
Nicholas W Gebelt

Wagner Segura

Represented By
Nicholas W Gebelt

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The Law Offices of Jamie A. Cuevas

Represented By
Nicholas W Gebelt

Movant(s):

Jamie Alberto Cuevas jr.

Represented By
Nicholas W Gebelt

Gloria Valenzuela

Represented By
Nicholas W Gebelt

Wagner Segura

Represented By
Nicholas W Gebelt

The Law Offices of Jamie A. Cuevas

Represented By
Nicholas W Gebelt

Plaintiff(s):

Todd Turoci

Represented By
Todd L Turoci

Luis G. Torres

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:14-24888 Jesus Padilla Simental

Chapter 13

#3.00 Motion to Vacate Order Dismissing Bankruptcy Case

EH ____

Docket 72

Tentative Ruling:

1/10/19

BACKGROUND

On December 12, 2014, Jesus Simental ("Debtor") filed a Chapter 13 voluntary petition. On February 26, 2015, Debtor's Chapter 13 plan was confirmed.

On May 31, 2018, Trustee filed a motion to dismiss for failure to submit tax returns or refunds. Debtor did not file an opposition to the motion. After a continuance, no appearance was made on behalf of Debtor at the continued hearing on the motion to dismiss, and the case was dismissed on November 8, 2018.

On November 26, 2018, Debtor filed a motion to vacate the dismissal order on the grounds of mistake, inadvertence and/or excusable neglect. On November 27, 2018, Trustee filed comments indicating disapproval, although the comments could also be characterized as recommending conditional approval. On December 3, 2018, Debtor set the matter for hearing and, on December 4, 2018, Debtor filed a supplemental declaration.

DISCUSSION

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Debtor relies on FED. R. CIV. P. Rule 60(b)(1), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, which allows for relief from an order based on "mistake, inadvertence, surprise, or excusable neglect."

The legal basis for Debtor's assertion that the dismissal order should be vacated is that Debtor's counsel inadvertently did not appear at the hearing due to an office error. It is well established, however, that "an attorney's ignorance and carelessness does not provide grounds for Rule 60(b) relief." *In re Mercado*, 144 B.R. 879, 886 (Bankr. C.D. Cal. 1992) (citing *Bershad v. McDonough*, 469 F.2d 1333, 1337 (7th Cir. 1972)). And the mere assertion that counsel did not fulfill its duties, but that such carelessness was inadvertent, is clearly inadequate to support Rule 60(b) relief. *See, e.g., In re ACME Motors, Inc.*, 125 B.R. 702, 703 (Bankr. D.R.I. 1991).

"Rule 60(b) relief is extraordinary." *Id.* Yet, in this Court, a request for relief from a Chapter 13 dismissal order has become ordinary. On occasion, the requests are legally sound. Here, however, the evidence provided simply indicates that Debtor's counsel did not attend the hearing due to an internal error.

The Supreme Court has stated that:

There is certainly no merit to the contention that dismissal of petitioner's claim because of his counsel's unexcused conduct imposes an unjust penalty on the client. Petitioner voluntarily chose this attorney as his representative in the action, and he cannot now avoid the consequences of the acts or omissions of this freely selected agent. Any other notion would be wholly inconsistent with our system of representative litigation, in which each party is deemed bound by the acts of his lawyer-agent.

Link v. Wabash R. Co., 370 U.S. 626, 633-34 (1962). *See also Bakery Mach. &*

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Fabrication, Inc. v. Traditional Baking, Inc., 570 F.3d 845, 848 (7th Cir. 2009) ("[T]he clients are principals, the attorney is an agent, and under the law of agency the principal is bound by his chosen agent's deeds. The rule is that *all* of the attorney's misconduct (except in the cases where the act is outside the scope of employment or in cases of excusable neglect) becomes the problem of the client. A lawyer who inexcusably neglects his client's obligations does not present exceptional circumstances."). "Although attorney carelessness can [in certain circumstances] constitute 'excusable neglect' under Rule 60(b)(1), attorney inattentiveness to litigation is not excusable, no matter what the resulting consequences the attorney's somnolent behavior may have on a litigant." *Easley v. Kirmsee*, 382 F.3d 693, 698 (7th Cir. 2004) (collecting cases).

TENTATIVE RULING

The Court is inclined to GRANT the motion conditioned on compliance with the Trustee's conditions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jesus Padilla Simental

Represented By
Bryn C Deb

Movant(s):

Jesus Padilla Simental

Represented By
Bryn C Deb

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:17-10619 Scott Patrick Williams and Lisa Ann Williams

Chapter 13

#4.00 CONT Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments with Declaration of Scott Patrick Williams

From: 12/20/18

Also #5

EH__

Docket 126

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Scott Patrick Williams

Represented By
Summer M Shaw
Jenny L Doling

Joint Debtor(s):

Lisa Ann Williams

Represented By
Summer M Shaw
Jenny L Doling

Movant(s):

Scott Patrick Williams

Represented By
Summer M Shaw
Jenny L Doling

Lisa Ann Williams

Represented By
Summer M Shaw
Jenny L Doling

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

CONT... Scott Patrick Williams and Lisa Ann Williams

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:17-10619 Scott Patrick Williams and Lisa Ann Williams

Chapter 13

#5.00 CONT Trustee's Motion to Dismiss Case

From: 11/15/18, 12/20/18

Also #4

EH__

Docket 116

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Scott Patrick Williams

Represented By
Summer M Shaw
Jenny L Doling

Joint Debtor(s):

Lisa Ann Williams

Represented By
Summer M Shaw
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-11319 Fernando Coronel and Maria Coronel

Chapter 13

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

EH__

Docket 65

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Fernando Coronel

Represented By
Raymond Perez

Joint Debtor(s):

Maria Coronel

Represented By
Raymond Perez

Movant(s):

Fernando Coronel

Represented By
Raymond Perez

Maria Coronel

Represented By
Raymond Perez

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19696 Corinthia A. Williams

Chapter 13

#7.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: CORINTHIA A. WILLIAMS

From: 11/29/18, 12/20/18

EH__

Docket 7

Tentative Ruling:

11/29/2018

The evidence that the tax issue which resulted in the dismissal of the Debtor's second case is insufficient. At minimum, the Debtor should have provided a declaration of the tax preparer she hired to give the Court an opinion regarding the likelihood that the IRS would again file a claim of a similar amount, which would render the Debtor's case infeasible.

As to service, the Order Setting Hearing on Shortened time required that a Written Notice of the Hearing **AND** a copy of the Court's Order Setting the Hearing be sent to the creditors indicated. Instead, Docket No. 15 is a stand-alone proof of service which indicates that the Order and a Notice of Hearing were mailed to the foreclosing creditor. However, Docket reflects a failure by Debtor to file a Notice of Hearing indicating the date, time and place of the hearing. The stand-alone proof of service is insufficient for the Court to have certainty that a Notice of Hearing which satisfies due process requirements was mailed to the foreclosing creditor.

As such, the tentative ruling is to DENY the Motion.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

CONT... Corinthia A. Williams

Chapter 13

Debtor(s):

Corinthia A. Williams

Represented By
Christopher J Langley

Movant(s):

Corinthia A. Williams

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-18921 Steven Michael Cross

Chapter 13

#8.00 Motion for Order Determining Value of Collateral

EH__

Docket 25

*** VACATED *** REASON: CASE DISMISSED 12/20/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Steven Michael Cross

Represented By
M Wayne Tucker

Movant(s):

Steven Michael Cross

Represented By
M Wayne Tucker
M Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#9.00 Motion Re: Objection to Claim Number 3 by Claimant IRS

Also #10

EH__

Docket 28

***** VACATED *** REASON: CONTINUED TO 2/7/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Movant(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#10.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18

Also #9

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-18326 Louise Laster

Chapter 13

#11.00 CONT Confirmation of Chapter 13 Plan

From: 11/29/18

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Louise Laster

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-18773 Jill Cathleen Watson

Chapter 13

#12.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18

EH ___

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jill Cathleen Watson

Represented By
Robert W Ripley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-18821 Humberto Camacho, Jr and Sarah Camacho

Chapter 13

#13.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Humberto Camacho Jr

Represented By
Christian N. Cooper

Joint Debtor(s):

Sarah Camacho

Represented By
Christian N. Cooper

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-18846 Jose L. Ferrer and Maria Ferrer

Chapter 13

#14.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose L. Ferrer

Represented By
Antonio John Ibarra

Joint Debtor(s):

Maria Ferrer

Represented By
Antonio John Ibarra

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-17769 Kellie C. Baker

Chapter 13

#15.00 CONT Confirmation of Chapter 13 Plan

From: 11/15/18

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kellie C. Baker

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-18942 Benjamin John Ramos

Chapter 13

#16.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Benjamin John Ramos

Represented By
Kevin M Mahan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19156 William Parker

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/17/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William Parker

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19165 Pamela M Bradford

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 11/20/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pamela M Bradford

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19169 Kimberly Michelle Giron

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 11/20/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kimberly Michelle Giron

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19171 Albert Esquivel and Shawna Esquivel

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Albert Esquivel

Represented By
Kian Mottahedeh

Joint Debtor(s):

Shawna Esquivel

Represented By
Kian Mottahedeh

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19183 Carmen Lynn Chilson

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carmen Lynn Chilson

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19196 Sheila Rosales Manabat

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sheila Rosales Manabat

Represented By
John A Varley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19213 Jesus Francisco Alcocer

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus Francisco Alcocer

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19233 Yair Salvador Carranza Contreras

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yair Salvador Carranza Contreras

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19234 Jorge Anderson

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/4/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Anderson

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19264 Lupita Meza Perez

Chapter 7

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
12/7/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lupita Meza Perez

Pro Se

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19272 Walter Harrington

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Walter Harrington

Represented By
Kevin M Cortright

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19277 Kevin Daily

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kevin Daily

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19278 Charles Greg Lester

Chapter 13

#29.00 Motion for Setting Property Value

Also #30

EH__

Docket 24

Tentative Ruling:

1/10/2019

BACKGROUND

On October 31, 2018, Charles Lester ("Debtor") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2009 Honda Accord (the "Property"). Bridgecrest Credit Company, LLC ("Creditor") has a security interest in the Property. On November 6, 2018, Creditor filed a proof of claim in the amount of \$14,337.52, identifying \$7,050 as secured by the Property. On December 19, 2018, Debtor filed a motion to determine the value of the property. Debtor requests that the Property be valued at \$4,650, leaving the balance of the claim, \$9,687.52, unsecured.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

CONT... Charles Greg Lester

Chapter 13

Presently the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that retail value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has simply asserted that the value of the Property is \$4,650 based on his knowledge of comparable sales. Debtor has not submitted any secondary evidence to support this assertion. Because Debtor has not provided adequate evidence to support his proffered assessment of the Property's retail value, the Court is inclined to continue the matter for supplemental evidence.

Tentative Ruling:

The Court is inclined to CONTINUE the matter for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Charles Greg Lester

Represented By
Jenny L Doling

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

CONT... Charles Greg Lester

Chapter 13

Movant(s):

Charles Greg Lester

Represented By
Jenny L Doling
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19278 Charles Greg Lester

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

Also #29

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Greg Lester

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19281 Michael Talbot

Chapter 7

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
12/11/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Talbot

Represented By
Ryan A. Stubbe

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19340 Dawn Michele McClure

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dawn Michele McClure

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19352 Stacy Scott Patton, Sr

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stacy Scott Patton Sr

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19358 Erik A Morales

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Erik A Morales

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19360 Michael Rudy Holguin and Juana Patricia Holguin

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Rudy Holguin

Represented By
Daniel King

Joint Debtor(s):

Juana Patricia Holguin

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19368 Salvador Marquez

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Salvador Marquez

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19376 Matthew J Whyte and Laura M Whyte

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Matthew J Whyte

Represented By
William J Howell

Joint Debtor(s):

Laura M Whyte

Represented By
William J Howell

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19400 Maria D Valdez Quintero

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria D Valdez Quintero

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19414 Paul Edward Young, Jr.

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Edward Young Jr.

Represented By
Stephen L Burton

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19418 Vanessa Alexander

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 11/26/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vanessa Alexander

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19437 Toni Elizabeth Prima - Zuvich

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/11/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Toni Elizabeth Prima - Zuvich

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19465 Joseph F. Mark

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph F. Mark

Represented By
Keith Q Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19486 Jacqueline Williams

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jacqueline Williams

Represented By
Marjan Alitalaei

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19494 Rachel Ann Sullivan

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rachel Ann Sullivan

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19508 Tawnie L Vanderham

Chapter 13

#45.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/10/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tawnie L Vanderham

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19528 Deborah Ann Bowie

Chapter 13

#46.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 11/27/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Deborah Ann Bowie

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19532 Jose F Mejia

Chapter 13

#47.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 11/27/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose F Mejia

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19544 Michael A Reese and Mary P Reese

Chapter 13

#48.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael A Reese

Represented By
Gary J Holt

Joint Debtor(s):

Mary P Reese

Represented By
Gary J Holt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19547 Freddie Steve Huff and Patsy Ruth Huff

Chapter 13

#49.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Freddie Steve Huff

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Patsy Ruth Huff

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-19549 Mary Joyce Rudolph

Chapter 13

#50.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mary Joyce Rudolph

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:00 AM

6:18-16362 Lisa Caron

Chapter 13

#51.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lisa Caron

Represented By
Bruce A Wilson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:14-11369 Robert Wayne Cook, Sr. and Kelly Danielle Cook

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH__

Docket 162

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Wayne Cook Sr.

Represented By
Steven A Alpert

Joint Debtor(s):

Kelly Danielle Cook

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:14-18349 Fabiola Adame

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 204

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/26/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Fabiola Adame

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:14-24084 Michael Lee Barnes and Belinda Ann Barnes

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH__

Docket 132

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Lee Barnes

Represented By
Todd L Turoci

Joint Debtor(s):

Belinda Ann Barnes

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:15-19148 Esmeralda Caldera

Chapter 13

#55.00 CONT Trustee's Motion to Dismiss Case

From: 11/29/18

EH__

Docket 80

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Esmeralda Caldera

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:15-20062 Lilia Iveth Fong

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 77

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lilia Iveth Fong

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:15-22033 Shyla L. Montgomery

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 91

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shyla L. Montgomery

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:16-15914 Maria Aurora Chaidez Grajeda

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria Aurora Chaidez Grajeda

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:16-16240 Dorothy Mae Simmons

Chapter 13

#59.00 CONT Trustee's Motion to Dismiss Case

From: 11/29/18

EH__

Docket 66

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/9/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dorothy Mae Simmons

Represented By
M Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:16-17893 Ashley Douglas Faulstich

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH__

Docket 88

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/26/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ashley Douglas Faulstich

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:16-17902 Patricia Daniels

Chapter 13

#61.00 CONT Trustee's Motion to Dismiss Case

From: 11/29/18

EH__

Docket 65

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Daniels

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#62.00 CONT Trustee's Motion to Dismiss Case

From: 12/6/18

EH ____

Docket 72

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:16-19592 Carlette F. Dickerson

Chapter 7

#63.00 Trustee's Motion to Dismiss Case

EH__

Docket 94

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
1/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlette F. Dickerson

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:16-21234 Frank A Horzen and Barbara A Horzen

Chapter 13

#64.00 Trustee's Motion to Dismiss Case

EH__

Docket 111

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank A Horzen

Represented By
Paul Y Lee

Joint Debtor(s):

Barbara A Horzen

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-10082 Francisco R Palacios

Chapter 13

#65.00 CONT Trustee's Motion to Dismiss Case

From: 11/29/18, 12/20/18

EH__

Docket 176

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Francisco R Palacios

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-11131 Bruce Howard Ruggles and Ann Marie Ruggles

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH__

Docket 80

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Howard Ruggles

Represented By
John F Brady

Joint Debtor(s):

Ann Marie Ruggles

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-13212 Liliana Martinez

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Liliana Martinez

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-13290 Joseph Frank Garcia and Roberta Ann Garcia

Chapter 13

#68.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Frank Garcia

Represented By
Dana Travis

Joint Debtor(s):

Roberta Ann Garcia

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-13599 Maurice Frank Manceau

Chapter 13

#69.00 Trustee's Motion to Dismiss Case

EH__

Docket 92

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maurice Frank Manceau

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-13607 Fernando Ramos

Chapter 13

#70.00 Trustee's Motion to Dismiss Case

EH__

Docket 82

*** VACATED *** REASON: CASE DISMISSED 12/21/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Fernando Ramos

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-14187 Andre J Booker and Carrie L Booker

Chapter 13

#71.00 Trustee's Motion to Dismiss Case

EH__

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andre J Booker

Represented By
Paul Y Lee

Joint Debtor(s):

Carrie L Booker

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-16164 William Richard Newborg and Serina Rae Newborg

Chapter 13

#72.00 Trustee's Motion to Dismiss Case

EH__

Docket 67

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/26/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William Richard Newborg

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Serina Rae Newborg

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-16439 Oscar Avila

Chapter 13

#73.00 Trustee's Motion to Dismiss Case

EH__

Docket 59

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Avila

Represented By
Sanaz S Bereliani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-16992 Nicholas Charles Goodner and Jennifer Louise Goodner

Chapter 13

#74.00 Trustee's Motion to Dismiss Case

EH__

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicholas Charles Goodner

Represented By
Dana Travis

Joint Debtor(s):

Jennifer Louise Goodner

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-17189 Earma Denise Young Washington and Marvin Ray

Chapter 13

#75.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Earma Denise Young Washington

Represented By
Brad Weil

Joint Debtor(s):

Marvin Ray Washington

Represented By
Brad Weil

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-17402 Thomas Lee Abercrombie and Rebecca Anne Abercrombie

Chapter 13

#76.00 Trustee's Motion to Dismiss Case

EH__

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Thomas Lee Abercrombie

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Rebecca Anne Abercrombie

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-19027 Jaime Villalobos and Jennifer Villalobos

Chapter 13

#77.00 CONT Trustee's Motion to Dismiss Case

From: 12/20/18

EH__

Docket 55

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jaime Villalobos

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Jennifer Villalobos

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-20487 Ann Marie Smith

Chapter 13

#78.00 Trustee's Motion to Dismiss Case

EH__

Docket 68

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ann Marie Smith

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:18-10170 Vernita Goodwin

Chapter 13

#79.00 Trustee's Motion to Dismiss Case

EH__

Docket 70

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:18-10637 Felipe Gonzalez Plasencia

Chapter 13

#80.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Felipe Gonzalez Plasencia

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:18-11910 Joe Medina

Chapter 13

#81.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joe Medina

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:18-12842 Evangeline Bato Videna

Chapter 13

#82.00 Trustee's Motion to Dismiss Case

EH__

Docket 25

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Evangeline Bato Videna

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:18-14277 Cesar Orozco

Chapter 13

#83.00 Trustee's Motion to Dismiss Case

EH__

Docket 31

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cesar Orozco

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:18-14340 Lawrence A McCoy

Chapter 13

#84.00 CONT Trustee's Motion to Dismiss Case

From: 11/15/18, 11/29/18, 12/20/18

EH__

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lawrence A McCoy

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:18-14725 Percylyn Agustin Basa

Chapter 13

#85.00 Trustee's Motion to Dismiss Case

EH__

Docket 55

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/26/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Percylyn Agustin Basa

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:18-14850 Florence M Rodriguez

Chapter 13

#86.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Florence M Rodriguez

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 10, 2019

Hearing Room 303

11:01 AM

6:17-10460 Julio Cesar Cacho and Rosalie Ann Cacho

Chapter 13

#87.00 Trustee's Motion to Dismiss Case

EH__

Docket 63

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julio Cesar Cacho

Represented By
M Wayne Tucker

Joint Debtor(s):

Rosalie Ann Cacho

Represented By
M Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

10:00 AM

6:14-18622 Saul Bautista

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11 Della Cava Lane, Lake Elsinore, California 92532

MOVANT: JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

From: 11/27/18

EH__

Docket 49

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Saul Bautista

Represented By
James T Lillard

Movant(s):

JPMORGAN CHASE BANK, N.A.

Represented By
Grace Chang-Rodriguez
Ann Nguyen
Kennessa C Hartin
Delesia Graham
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 304 Calendar**

Tuesday, January 15, 2019

Hearing Room 304

10:00 AM

6:15-19930 Melinda Kay Allen

Chapter 13

#2.00 Amended Motion (related document(s): 60 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11139 Laurel Ave., Bloomington CA 92316 . filed by Creditor US Bank Trust National Association as Trustee of IGSC Series II Trust) (Zilberstein, Kristin)

MOVANT: US BANK TRUST NA

EH__

Docket 62

Tentative Ruling:

01/15/2019
Service: Proper
Opposition: Yes

The Debtor, after seemingly failing to make payments to Movant for several months, now seeks a continuance based on a loan modification request that she has not yet submitted for review. The Court is inclined to GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay. DENY request for termination of the co-debtor stay based on lack of service on any co-debtor and lack of evidence as to identity of alleged co-debtor. GRANT request under ¶3. DENY request for APO as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Melinda Kay Allen

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

10:00 AM

6:17-19130 Roger C. Rosal and Rosalinda N. Rosal

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1453 Daffodil Way, Beaumont, California 92223

MOVANT: SPECIALIZED LOAN SERVICING LLC

EH__

Docket 27

Tentative Ruling:

01/15/2019
Service: Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
GRANT requests under ¶¶ 3 and 12. Request for APO is DENIED as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Roger C. Rosal

Represented By
William E Windham

Joint Debtor(s):

Rosalinda N. Rosal

Represented By
William E Windham

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

10:00 AM

6:18-16905 Tina M Coca

Chapter 7

#4.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2345 Cornell Circle, Corona, CA 92881-6625

MOVANT: FIRST MIDWEST BANK

From: 10/16/18

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tina M Coca

Represented By
Emilia N McAfee

Movant(s):

First Midwest Bank, its successors

Represented By
Nichole Glowin

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

10:00 AM

6:18-19747 Bianca V Gonzalez-Perez and Cristian Alvarez Lorenzo

Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Toyota Corolla

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH__

Docket 11

Tentative Ruling:

01/15/2019
Service is Proper
Opposition: None

GRANT relief from the stay under §§ 362(d)(1) and (d)(2). GRANT waiver of 4001(a)(3) stay.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Bianca V Gonzalez-Perez

Represented By
Freddie V Vega

Joint Debtor(s):

Cristian Alvarez Lorenzo

Represented By
Freddie V Vega

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

10:00 AM

6:18-20222 Moises Cortez and Rosalia Cortez

Chapter 7

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1661 W Via Bello Drive Rialto, California 92377

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

EH__

Docket 9

Tentative Ruling:

01/15/2019

The copy of the Movant's motion for relief from stay as filed on the Court's docket and also as reflected in the courtesy copy provided to the Court is illegible as to the Real Property Declaration. For this reason, the Court is inclined to CONTINUE the hearing to February 7, 2019 at 11:00 a.m. The Debtor must file and serve an amended notice of hearing and amended Motion with a clear and legible copy of the Real Property Declaration attached, on or before January 17, 2019.

APPEARANCES WAIVED.

Party Information

Debtor(s):

Moises Cortez

Represented By
Neil R Hedtke

Joint Debtor(s):

Rosalia Cortez

Represented By
Neil R Hedtke

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

10:00 AM

6:18-20535 Peter W Fournier and Leslie Fournier

Chapter 13

#7.00 Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 23021 Cotati Court, Moreno Valley, CA 92557

MOVANT: PETER FOURNIER AND LESLIE FOURNIER

EH__

Docket 19

Tentative Ruling:

01/15/2019

The Debtors have a foreclosure sale scheduled for February 18, 2019. However, here, the Debtors have failed entirely to address the reasons for the prior dismissal. The Court is aware that a failure to file documents resulted in the dismissal but the Debtors fail to explain why they failed to file the documents and more importantly, how the Court and creditors can have confidence that the same errors which resulted in the prior dismissal will not recur in the current case.

In addition to the foregoing, despite the Debtors' declaration indicating that the Motion was served pursuant to Rule 7004 as required by the Court's OST, the proof of service indicates that US Bank was not served to the attention of an officer and was not served at its address as indicated on the FDIC website. As such, the Court finds that service on the secured creditor did not comply with the Court's OST.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Peter W Fournier

Represented By
Laleh Ensafi

Joint Debtor(s):

Leslie Fournier

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

10:00 AM

CONT... Peter W Fournier and Leslie Fournier

Chapter 13

Laleh Ensafi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

10:00 AM

6:18-20547 Tawnie L Vanderham

Chapter 13

#8.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

MOVANT: TAWNIE VANDERHAM

EH__

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tawnie L Vanderham

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

10:00 AM

6:18-20644 Terry E Crossley and Janell Crossley

Chapter 13

#9.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: TERRY E. CROSSLEY AND JANELL CROSSLEY

EH__

Docket 15

Tentative Ruling:

TENTATIVE RULING:

01/15/2019

At the prior hearing the case was dismissed at confirmation based on the Trustee's objections regarding:

- No evidence the December mortgage payment was made
- No proof of income
- No DSO declaration
- Lack of feasibility

Additionally, the secured creditor indicated their records indicated a failure to pay the December mortgage payment as of the date of the hearing.

In support of the instant Motion, the Debtors acknowledge they were not prepared to provide proof of income to the Trustee in a timely manner. The Debtors assert that they are now able to do so. Exhibit 2 provides profit and loss statements broken down by business (the Debtors run three separate businesses/income earning activities to support themselves). Additionally, the Debtors have provided copies of documents indicating that they are current with their payment obligations in the current case and that they have filed the DSO declaration. Exhibit 3.

Based on the evidence of the Debtors' efforts to resolve the issues flagged in the prior case, in addition to the proof of service which indicates that Debtors have properly served creditors, the Court is inclined to GRANT the Motion.

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Riverside
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Tuesday, January 15, 2019

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CONT... Terry E Crossley and Janell Crossley

Chapter 13

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Terry E Crossley

Represented By
Christopher J Langley

Joint Debtor(s):

Janell Crossley

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

10:00 AM

6:18-20759 Elida Soto

Chapter 13

#10.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 13692 Bedford Place, Victorville, CA 92392

MOVANT: ELIDA SOTO

EH__

Docket 12

Tentative Ruling:

01/15/2019

The Motion addresses issues in the prior case related to a lack of sufficient income in the prior case which made it difficult to remain current. However, the Motion provides no evidence or argument to address the actual cause for dismissal – the failure to submit 2017 Federal and State tax returns and refunds to the Chapter 13 Trustee. Having failed to address the basis for dismissal, the Court is inclined to DENY the Motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Elida Soto

Represented By
William G Cort

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01109 David M. Goodrich, Chapter 11 Trustee v. Titanium Resource Company,

#11.00 CONT Status Conference Re: Complaint by David M. Goodrich, Chapter 11 Trustee against Titanium Resource Company, Inc., a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers and Adversary Proceeding Cover Sheet Nature of Suit: 12 - Recovery of money/property - 547 - preference,13 Recovery of money/property - 548 fraudulent transfer

From: 7/10/18, 8/21/18, 10/30/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Titanium Resource Company, Inc., a

Represented By
Alan W Forsley

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01110 David M. Goodrich, Chapter 11 Trustee v. Larson, D.C., an individual

#12.00 CONT Status Conference Re: Complaint by David M. Goodrich, Chapter 11 Trustee against John Larson, D.C., an individual. (Charge To Estate). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers, Avoidance of Improper Distributions, and Unjust Enrichment and Adversary Proceeding Cover Sheet Nature of Suit: 12 - Recovery of money/property - 547 preference, 13- Recovery of money/property - 548 fraudulent transfer

From: 7/10/18, 8/21/18, 10/30/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

John Larson, D.C., an individual

Represented By
Alan W Forsley

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01111 David M. Goodrich, Chapter 11 Trustee v. American Express Company, a

#13.00 CONT Status Conference RE: **3rd Party Complaint** [4] Answer to Complaint and Affirmative Defenses to Plaintiff's Complaint, and Third-Party Claim Against John C. Larson, Third-Party Complaint by American Express Company, a New York Corporation dba American Express, American Express Travel Related Services, Inc., a New York corporation dba American Express against John C. Larson

From: 8/21/18, 10/30/18

Also #14

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

American Express Travel Related

Pro Se

American Express Company, a New

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth
Mark S Horoupian

**United States Bankruptcy Court
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Riverside
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Hearing Room 303

2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01111 David M. Goodrich, Chapter 11 Trustee v. American Express Company, a

#14.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01111. Complaint by David M. Goodrich, Chapter 11 Trustee against American Express Company, a New York Corporation dba American Express, American Express Travel Related Services, Inc., a New York corporation dba American Express. (Charge To Estate). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

From: 7/10/18, 8/21/18, 10/30/18

Also #13

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

American Express Travel Related

Pro Se

American Express Company, a New

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

**United States Bankruptcy Court
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Tuesday, January 15, 2019

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CONT... Allied Injury Management, Inc.

Chapter 11

Mark S Horoupian

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
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Tuesday, January 15, 2019

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2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01113 David M. Goodrich, Chapter 11 Trustee v. Netreva, Inc., a California

#15.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01113. Complaint by David M. Goodrich, Chapter 11 Trustee against Netreva, Inc., a California corporation. (Charge To Estate). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Werth, Steven)

From: 7/10/18, 8/21/18, 10/30/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Netreva, Inc., a California

Represented By
Lazaro E Fernandez

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
Central District of California
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2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
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Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

6:16-19993 B & B Family, Incorporated

Chapter 11

#16.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 12/13/16, 3/7/17, 5/30/17, 7/25/17, 9/26/17, 10/31/17, 11/7/17, 5/15/18,
8/21/18

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B & B Family, Incorporated

Represented By
Todd L Turoci
Julie Philippi

**United States Bankruptcy Court
Central District of California
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Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#17.00 Motion of the Debtor and Debtor-in- Possession for Order Approving Management Agreement

Also #18

EH__

Docket 290

***** VACATED *** REASON: CONTINUED TO 1/29/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

**United States Bankruptcy Court
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Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#18.00 CONT Motion of the Debtor and Debtor-in-Possession for Order Approving Services Agreement with Force 10 Partners, LLC, Pursuant to 11 U.S.C. § 363(b)

From: 11/27/18

Also #17

EH__

Docket 154

Tentative Ruling:

BACKGROUND

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor") filed a Chapter 11 voluntary petition. Debtor is a not-for-profit home health services organization with approximately 160 employees and 360 patients. At the time of filing, Debtor had three patients centers: Riverside, Palm Desert, and Murrieta.

On October 23, 2018, the Debtor filed a Motion for Order Approving Services Agreement with Force 10 Partners, LLC ("Motion"), pursuant to 11 U.S.C. § 363(b). On November 6, 2018, the H.N. and Frances C. Berger Foundation ("Foundation") filed opposition to the Motion. The Debtor filed a reply to the Foundations' opposition on November 20, 2018. Subsequently, the parties, including the United States Trustee ("UST") filed a stipulation to continue the hearing and provide new deadlines for supplemental/amended filings. The Court approved the stipulation and continued the hearing.

Per the Court's order, the Debtor was required to file any amendments or revisions by December 11, 2018. Instead, the Debtor delayed in filing its amended motion until December 27, 2018 (the "Amended Motion"). No opposition to the Motion has been

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CONT... **Visiting Nurse Association of the Inland Counties**
filed.

Chapter 11

DISCUSSION

The Amended Motion seeks approval of a Management Agreement between the Debtor and Force 10, LLC (the "Agreement"). Pursuant to the terms of the Agreement, the Debtor would retain the services of Adam Meislik as Chief Restructuring Officer (CRO) and support services from Force 10 which would be compensated on a monthly basis with Force 10 submitting monthly fee statements on a monthly basis, filed with the Court and served on the UST and other parties in interest. In its prior Opposition, the Foundation was concerned with (1) potential conflicts because Force 10 potentially had a relationship with the Creditor's Committee which would conflict with its duties to the Debtor, (2) the Foundation believed that Force 10 should seek employment under § 327 instead of § 363(b), (3) the original motion did not address the need for nunc pro tunc relief, (4) there was insufficient information regarding the potential impact of the fees or budget as it relates to a case which the Foundation characterized as administratively insolvent, (5) will the hiring of Force 10 impact the salary of the controller; (6) concerns related to the power of the Debtor's Board over the Force 10.

TENTATIVE RULING

Here, given the Debtor's delay in filing the Amended Motion, given that legal issues related to § 327 and § 363(b) have also been raised with regard to employment of Healthsure Management Services, LLC ("HMS"), which is set for hearing on January 29, 2018, and given the issues regarding the estate's capacity to pay the various professionals sought to be employed are related to both motions, the Court is inclined to CONTINUE the hearing on the Amended Motion re: Force 10 to January 29, 2019, at 2:00 p.m., to be heard concurrently with the Motion to Approve Employment of HMS as Management Consultant.

The Court also notes that the Amended Motion was filed and served with insufficient time to be set on regular notice.

APPEARANCES WAIVED. Movant to file and serve an amended notice of hearing on the motion.

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CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

Movant(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
David M Goodrich
Beth Gaschen
Beth Gaschen
Jennifer Vicente
Jennifer Vicente
Ryan W Beall
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#19.00 CONT Motion to Dismiss Chapter 11 Case

From: 9/25/18, 10/1/18, 12/4/18, 12/18/18

Also #20 & #21

EH__

Docket 37

Tentative Ruling:

9/25/2018

BACKGROUND

On July 23, 2018, Richard Garavito ("Debtor") filed a Chapter 11 voluntary petition. Debtor previously filed a Chapter 13 case on April 17, 2018, which was dismissed on July 19, 2018.

On August 29, 2018, the Taylor Family Trust of June 16, 2004 ("Creditor"), the primary creditor in the instant case, filed a motion to confirm that the automatic stay terminated pursuant to 11 U.S.C. § 362(c)(3)(A). On September 7, 2018, Debtor filed a motion to continue/impose the automatic stay. Because Debtor has not offered a cognizable legal argument as to why the automatic stay has not terminated, or why Debtor can obtain a continuation of the automatic stay after the statutory deadline, the Court has posted tentative rulings indicating that it intends to grant Creditor's motion and deny Debtor's motion.

On September 11, 2018, Debtor filed a motion to dismiss the case and an application

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CONT...

Richard Garavito

Chapter 11

shortening time. On September 13, 2018, the Court approved the application shortening time, and set a hearing for September 25, 2018.

DISCUSSION

11 U.S.C. § 1112(b)(1) states:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

11 U.S.C. § 1112(b)(4) provides a non-exclusive list of sixteen examples of cause – most of which are more appropriately considered when the moving party is an entity other than the debtor.

Here, Debtor’s motion is unclear, at best. The entire argument why the case should be dismissed is reproduced, verbatim, as follows:

In the present case, since the motion to impose and/or continue the stay was not timely filed, the stay will no longer be in effect with the pending motion to terminate the stay filed by secured creditor Taylor Family Trust.

The Debtor should not be penalized due to counsel’s inadvertent calendaring

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CONT...

Richard Garavito

Chapter 11

error of the 30 days rule of filing a motion to impose and/or continue the stay. However, an argument can be made that under the majority approach a motion to impose or continue the stay shall be filed as to the Debtor individually and not as to the property of the estate. Here, the Subject Property is property of the estate and the automatic stay should be in effect as to the Subject Property.

However, due to circumstances surrounding the possible termination of the stay, the Debtor requests dismissal of this case as there is no purpose if the stay is not in effect as to the Subject Property.

[Dkt. No. 37, pg. 5]. In summary, Debtor acknowledges that the stay has statutorily terminated and the deadline to continue the automatic stay has lapsed, but then argues that such stay termination is with regards to the Debtor only, not property of the estate. Despite the argument, the Debtor then asserts that due to "circumstances" the Debtor requests dismissal because there is "no purpose" if the stay has also terminated as to property of the estate.

There are multiple issues with the above line of argument. First, Debtor does not appear to have raised any coherent cause for dismissal – the only argument made in favor of dismissal, that the "Subject Property" is not protected by the automatic stay, (and thus this Chapter 11 case cannot be successful) is also explicitly rejected by Debtor. Second, § 1112(b) requires the Court to consider whether dismissal or conversion to Chapter 7 is in the best interests of creditors and the estate. Here, Debtor's schedules filed in the instant case indicate that all creditors would likely be paid in full if this case was converted to Chapter 7. Therefore, pursuant to the analysis required by § 1112(b), it is unclear why this case would be dismissed rather than converted to Chapter 7.

Finally, the Court acknowledges that, in a reply relating to its motion to confirm that the automatic stay has terminated, Creditor has requested that, if the case is dismissed, Debtor be restricted from re-filing by a bar. While raising this argument in a reply relating to a different motion is procedurally improper, the Court need not address the request at the current time given the issues above.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

CONT... Richard Garavito

Chapter 11

TENTATIVE RULING

Debtor and Creditor to argue: (1) whether there is cause for dismissal; (2) whether the automatic stay is in effect as to the Subject Property; and (3) whether dismissal or conversion to Chapter 7 would be in the best interests of creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#20.00 Motion (1) Authorizing sale of real property located at 5065 Brooks Street, Montclair, California, free and clear of liens, claims and interests, (2) Confirming sale to third party or the highest qualified bidder and approving overbid procedures; and (3) Determining that buyer is a good faith purchaser

Also #19 & #21

EH__

Docket 81

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#21.00 CONT Amended Motion (related document(s): 30 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 5065 Brooks Street, Montclair, Ca 91763 Notice of Motion and Motion in Individual Case for Order Imposing a Stay

MOVANT: RICHARD GARAVITO

From: 12/4/18, 12/18/18

Also #19 & #20

EH__

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 15, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#22.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 8/21/18, 10/16/18, 12/4/18, 12/18/18

Also #

EH ____

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 15, 2019

Hearing Room 303

2:30 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#23.00 CONT Debtor and Debtor in Possession's Motion to Approve Compromise of Disputes Pursuant to Federal Rule of Bankruptcy Procedure 9019

From: 12/20/18

Also #24 & #25

EH__

Docket 127

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/8/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 15, 2019

Hearing Room 303

2:30 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#24.00 CONT Debtor and Debtor in Possession's Motion for Order Authorizing Assumption of Executory Contract Pursuant to 11 U.S.C. Sect 365(a)

From: 12/20/18

Also #23 & #25

EH__

Docket 129

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/8/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 15, 2019

Hearing Room 303

2:30 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#25.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 11/27/18, 12/19/18, 12/20/18

Also #23 & #24

EH__

Docket 5

Tentative Ruling:

12/19/2018

All parties have authorization to appear telephonically for the 12/19/2018 Status Conference.

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 16, 2019

Hearing Room 303

11:00 AM

6:17-14068 Miguel Angel Gutierrez

Chapter 7

#1.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 41

Tentative Ruling:

1/16/19

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 3,250.00

Trustee Expenses: \$ 131.12

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Miguel Angel Gutierrez

Represented By
Melissa A Raskey

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 16, 2019

Hearing Room 303

11:00 AM

6:17-10273 Ever Ramirez Barreto

Chapter 7

#2.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 66

Tentative Ruling:

1/16/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee and Counsel for the Trustee, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$1,140.91

Attorney Fees: \$8,220.89
Attorney Costs: \$439.06

Accountant Fees: \$959.88

Court Charges: \$350

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Ever Ramirez Barreto

Represented By
Scott D McDonald

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 16, 2019

Hearing Room 303

11:00 AM

CONT... Ever Ramirez Barreto

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Represented By
Noreen A Madoyan
Craig G Margulies

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 16, 2019

Hearing Room 303

11:00 AM

6:15-15514 Manuel Jose Saldana

Chapter 7

#3.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 94

Tentative Ruling:

1/16/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee and Counsel for the Trustee, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 5,000
Trustee Expenses: \$ 0

Attorney Fees: \$35,606.45
Attorney Costs: \$986.36

Accountant Fees: \$2,364
Accounts Expenses: \$27.05

Internal Revenue Service: \$1,372.66

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Manuel Jose Saldana

Represented By
Robert G Uriarte

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 16, 2019

Hearing Room 303

11:00 AM

CONT... Manuel Jose Saldana

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Represented By
Leonard M Shulman
Elyza P Eshaghi
Rika Kido

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 16, 2019

Hearing Room 303

11:00 AM

6:10-51855 Brian Gudets and Delia F Gudets

Chapter 7

#4.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 116

Tentative Ruling:

1/16/2019

On December 30, 2010, Brian & Delia Gudets ("Debtors") filed a Chapter 7 voluntary petition. On April 20, 2011, Debtors received a discharge. On October 6, 2011, the case was closed.

On November 27, 2017, UST filed a motion to reopen the case to potentially administer a settlement award arising from prepetition litigation. On January 4, 2018, Debtors amended Schedules B and C to schedule a personal injury claim in the amount of \$50,000, and claim an exemption in the property of \$50,000. The Court notes that this amendment may have been in violation of FED. R. BANKR. P. Rules 1009(a) and 9006(b)(1), however, the Trustee declined to object to the amended exemptions. On February 13, 2018, the IRS filed a proof of claim ("Claim 4") in the amount of \$92,398.37, identifying \$34,307.73 as secured and \$57,990.64 as entitled to priority.

On April 9, 2018, Trustee filed a motion to approve compromise, which was approved by this Court on May 3, 2018. After receiving, \$50,000 from the approved settlement, Trustee's general and special counsel filed applications for compensation.

Trustee filed the instant final report on December 11, 2018. The final report proposes to pay \$41,488.74 to Trustee and his counsels for administrative expenses, and to pay the remaining \$6,011.26 on account of Claim 4. In essence, Trustee's proposed distribution pays the Chapter 7 administrative expenses first, the priority tax claim of

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11:00 AM

CONT... Brian Gudets and Delia F Gudets

Chapter 7

the IRS second, and the Debtor's exemption third (although there are no funds available at this point). After reviewing the compromise motion, it appears that the Trustee's rationale is as follows. First, pursuant to 11 U.S.C. § 522(c)(2)(B), exempt property of the Debtor is liable for Claim 4. Second, pursuant to § 724(b), payments made on behalf of IRS are only to be made after payment of the administrative expenses of the estate. Trustee appears to miss, however, § 522(k), which provides that exempt property cannot be used to pay administrative expenses, except under limited circumstances which are not applicable here. This provision would seem to preclude Trustee's attempt to jump ahead of Debtor's exemption in the order of distribution.

At first glance, the three cited provisions above would seem paradoxical. According to Trustee, 11 U.S.C. § 522(c)(2)(B) places Claim 4 above Debtor's exemption. According to Trustee, 11 U.S.C. § 724(b) appears clear that payment on behalf of Claim 4 is subordinated to payment of administrative expenses. And 11 U.S.C. § 522(k) appears clear that payment of administrative expenses is subordinated to payment of Debtor's exemption.

The Court's resolution of this paradox is the following. 11 U.S.C. § 724(b) is only applicable to "[p]roperty in which the estate has an interest." Pursuant to 11 U.S.C. § 522(b)(1), the settlement proceeds at issue are subject to an exemption and therefore have been "exempt[ed] from property of the estate." *See also Schwab v. Reilly*, 560 U.S. 770, 775 (2010) ("If an interested party fails to object within the time allowed, a claimed exemption will exclude the subject property from the estate."). Therefore, the estate does not have an interest in the settlement proceeds and § 724(b) is inapplicable. Because § 724(b) is inapplicable, the remaining provisions place Claim 4 ahead of the exemption and the exemption ahead of the administrative expenses. As a result, Trustee's is precluded from jumping Claim 4 and Debtor's exemption in the order of distribution. Therefore, the proper distribution appears to be to pay the secured portion of Claim 4, and to return the balance to the Debtor on account of Debtor's exemption in the proceeds.

Given the novelty of this legal issue, however, the Court will afford Trustee an opportunity to brief the issue if so desired.

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Wednesday, January 16, 2019

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11:00 AM

CONT... Brian Gudets and Delia F Gudets

Chapter 7

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Brian Gudets

Represented By
Rex Tran
Ronald Karz

Joint Debtor(s):

Delia F Gudets

Represented By
Rex Tran
Ronald Karz

Trustee(s):

Sandra L Bendon (TR)

Pro Se

Karl T Anderson (TR)

Represented By
Robert A Hessling

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, January 16, 2019

Hearing Room 303

11:00 AM

6:13-23186 Richard C Cox, Jr

Chapter 7

#5.00 CONT Motion for Turnover of Insurance Renewal Commissions

From: 8/22/18, 9/12/18, 11/14/18

EH __

Docket 150

*** VACATED *** REASON: CONTINUED TO 3/13/19 AT 11:00 A.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard C Cox Jr

Represented By
Summer M Shaw

Movant(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

Trustee(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 16, 2019

Hearing Room 303

11:00 AM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

#6.00 CONT Status Conference re: Second Joint Motion and Moving Memorandum by Chapter 7 Trustee and Revere Financial Corporation for Order Approving Settlement between Chapter 7 Trustee and Revere Financial Corporation

From: 8/22/18

EH __

Docket 521

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Movant(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

**United States Bankruptcy Court
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Wednesday, January 16, 2019

Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#7.00 Motion for Objection to Claim of Exemptions by Debtor, Julie Lynn Salazar

EH__

Docket 30

***** VACATED *** REASON: CONTINUED TO 1/30/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 16, 2019

Hearing Room 303

11:00 AM

6:15-21418 James Lloyd Walker

Chapter 7

#8.00 Motion for : (1) Order to Show Cause Why Debtor should not be held in Contempt and (2) Authority to Operate Rental Property and Employ Management Company

EH__

Docket 127

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth

Movant(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

Trustee(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

**United States Bankruptcy Court
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Courtroom 303 Calendar**

Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:18-15022 Rafael Alvarez Martinez

Chapter 7

Adv#: 6:18-01223 United States Trustee for the Central District of v. Alvarez Martinez

#9.00 Status Conference RE: [1] Adversary case 6:18-ap-01223. Complaint by United States Trustee for the Central District of California, Region 16 against Rafael Alvarez Martinez. (Fee Not Required). with adversary cover sheet Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Green, Everett)

EH__

Docket 1

***** VACATED *** REASON: JUDGMENT ENTERED 12/10/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rafael Alvarez Martinez

Represented By
Kevin J Kunde

Defendant(s):

Rafael Alvarez Martinez

Pro Se

Plaintiff(s):

United States Trustee for the Central

Represented By
Everett L Green

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:18-10208 Rolando Carlos Reyes

Chapter 7

Adv#: 6:18-01117 Pringle v. Reyes

#10.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01117. Complaint by John P. Pringle against Reginald Reyes. (Charge To Estate - \$350.00). with Proof of Service Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(91 (Declaratory judgment)),(11 (Recovery of money/property - 542 turnover of property)) (Iskander, Brandon)

From: 7/25/18, 10/24/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rolando Carlos Reyes

Represented By
Walter Scott

Defendant(s):

Reginald Reyes

Represented By
Walter Scott

Joint Debtor(s):

Florencia Aquino Reyes

Represented By
Walter Scott

Plaintiff(s):

John P. Pringle

Represented By
Brandon J Iskander

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2:00 PM

CONT... Rolando Carlos Reyes

Chapter 7

Trustee(s):

John P Pringle (TR)

Represented By

Lynda T Bui

Brandon J Iskander

Shulman Hodges & Bastian LLP

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#11.00 CONT Status Conference on Complaint filed on 3/1/18 to Determine Dischargeability of Debt Pursuant to 11 USC 523(a)(6)

From: 5/3/18, 8/2/18, 8/29/18, 12/5/18, 1/9/19

Also #12

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

**United States Bankruptcy Court
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Wednesday, January 16, 2019

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2:00 PM

CONT... Robert Lee Thompson, Jr.

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#12.00 CONT Status Conference RE: Counterclaim [19] Answer to Complaint and Affirmative Defenses to Complaint to Determine Dischargeability Pursuant to 11 U.S.C. §523(a)(6) and COUNTERCLAIM of Shatara Adrienne Thompson for Defamation, Counterclaim by Robert Lee Thompson Jr, Shatara Adrienne Thompson against Beatriz M Gutierrez

From: 8/2/18, 8/29/18, 12/5/18, 1/9/19

Also #11

EH__

Docket 19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

CONT... Robert Lee Thompson, Jr.

Chapter 7

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01222 Anderson, Chapter 7 Trustee v. Bobby Lee Associates, LLC

#13.00 Status Conference RE: [1] Adversary case 6:18-ap-01222. Complaint by Karl T. Anderson, Chapter 7 Trustee against Bobby Lee Associates, LLC. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(14 (Recovery of money/property - other)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Polis, Thomas)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Bobby Lee Associates, LLC

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
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Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01227 Anderson, Chapter 7 Trustee v. Wang

#14.00 Status Conference RE: [1] Adversary case 6:18-ap-01227. Complaint by Karl T. Anderson, Chapter 7 Trustee against Ming Chung Wang. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Polis, Thomas)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Ming Chung Wang

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
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Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01228 Anderson, Chapter 7 Trustee v. Via Cerro Partners, LP

#15.00 Status Conference RE: [1] Adversary case 6:18-ap-01228. Complaint by Karl T. Anderson, Chapter 7 Trustee against Via Cerro Partners, LP. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Polis, Thomas)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Via Cerro Partners, LP

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:17-13012 Issa M Musharbash

Chapter 7

Adv#: 6:17-01138 Musharbash et al v. Musharbash et al

#16.00 CONT Status conference RE: [1] Adversary case 6:17-ap-01138. Complaint to Determine Non-Dischargeability of Debt by Phillip Musharbash , Violette Musharbash against Issa M Musharbbash , Amal Musharbbash

From: 9/20/17, 2/7/18, 3/7/18, 8/15/18, 9/5/18, 10/17/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Issa M Musharbash

Represented By
Brian J Soo-Hoo

Defendant(s):

Issa M Musharbash

Pro Se

Amal Musharbash

Pro Se

Joint Debtor(s):

Amal Issa Musharbash

Represented By
Brian J Soo-Hoo

Plaintiff(s):

Phillip Musharbash

Pro Se

Violette Musharbash

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:16-11635 Sam Daniel Dason

Chapter 7

Adv#: 6:16-01211 Olivares v. Dason et al

#17.00 CONT Pre-Trial Conference Re: Amended Complaint by Juddy Olivares, Eric A Panitz against Sam Daniel Dason; 68- Dischargeability - 523(a)(6) Willful and Malicious Injury

FROM: 10/24/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sam Daniel Dason

Represented By
Robert G Uriarte

Defendant(s):

Sam Daniel Dason

Represented By
Robert G Uriarte

Joint Debtor(s):

Greeta Sam Dason

Represented By
Robert G Uriarte

Plaintiff(s):

Juddy Olivares

Represented By
Lazaro E Fernandez
Robert P Goe
Charity J Manee

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CONT... Sam Daniel Dason

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Represented By
Brett Ramsaur

**United States Bankruptcy Court
Central District of California
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Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:14-01248 Revere Financial Corporation, a California corpora v. Roger, MD

#18.00 CONT Motion by Revere Financial Corporation and Receiver Jerry Wang to Strike Affirmative Defenses in Answer by Douglas J. Roger to First Amended Complaint by Revere Financial Corporation and Receiver Jerry Wang

From: 11/28/18, 12/12/18

EH__

Docket 133

Tentative Ruling:

01/16/2019

BACKGROUND

On October 25, 2013, Douglas Jay Roger ("Debtor" or "Defendant") filed his petition for chapter 7 relief. On September 22, 2014, Revere Financial Corporation ("Revere") and Jerry Wang ("Receiver") (collectively, "Plaintiffs") filed a complaint for determination of the dischargeability of debts pursuant to §§ 523(a)(2)(B), 523(a)(2)(A), 523(a)(4)(A), 523(a)(4) & 523(a)(6); and objecting to the Debtor's discharge pursuant to §§727(a)(3), 727(a)(4)(A), 727(a)(4)(B), 727(a)(5), & 727(a)(7) ("Complaint" or "Dischargeability Action").

On October 6, 2014, the Debtor filed a motion to dismiss which resulted in dismissal of the original Complaint. On February 20, 2018, the Plaintiffs filed their First Amended Complaint (the "FAC"). A motion to dismiss the FAC was filed on April 24, 2018. The Court's order denying the motion to dismiss the FAC was entered on July 9, 2018. The Defendant filed his answer to the FAC on October 12, 2018 ("Answer").

On November 2, 2018, the Plaintiffs filed a Motion to Strike Affirmative Defenses in the Answer ("Motion"). An opposition to the Motion was filed on November 12, 2018 ("Opposition"), and a reply to the Opposition was filed on December 5, 2018 ("Reply"). Since the filing of the Motion, the hearing has been

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CONT... **Douglas Jay Roger**

Chapter 7

continued twice. First, by stipulation of the parties and then a second time on the Court's initiative.

DISCUSSION

"Motions to strike are 'generally disfavored because they are often used as delaying tactics and because of the limited importance of pleadings in federal practice.' " *Cortina v. Goya Foods, Inc.*, 94 F. Supp. 3d 1174, 1182 (S.D. Cal. 2015) (quoting *Rosales v. Citibank*, 133 F. Supp. 2d 1177, 1180 (N.D. Cal. 2001)). "[M]otions to strike should not be granted unless it is clear that the matter to be stricken could have no possible bearing on the subject matter of the litigation." *Colaprico v. Sun Microsystems, Inc.*, 758 F. Supp. 1335, 1339 (N.D. Cal. 1991). "When ruling on a motion to strike, this Court 'must view the pleading under attack in the light most favorable to the pleader.' " *Id.* (citing *RDF Media Ltd. v. Fox Broad. Co.*, 372 F. Supp. 2d 556, 561 (C.D. Cal. 2005)).

Rule 12(f) provides that the court "may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). "The function of a 12(f) motion to strike is to avoid the expenditure of time and money that must arise from litigating spurious issues by dispensing with those issues prior to trial..." *Whittlestone, Inc. v. Handi-Craft Co.*, 618 F.3d 970, 973 (9th Cir. 2010) (quoting *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993), rev'd on other grounds, 510 U.S. 517 (1994)). Accordingly, "[a] defense may be struck if it fails to provide 'fair notice' of the basis of the defense." *Qarbon.com Inc. v. eHelp Corp.*, 315 F. Supp. 2d 1046, 1048 (N.D. Cal. 2004); *see also Wyshak v. City Nat'l Bank*, 607 F.2d 824, 826 (9th Cir. 1979).

As a threshold matter, the parties urge the Court to consider the appropriate standard of review applicable to motions to dismiss affirmative defenses under the Federal Rules of Civil Procedure. The Court has examined the authorities cited by the parties and finds the reasoning of cases in line with *Vogel v. Huntington Oaks Delaware Partners, LLC*, 291 F.R.D. 438, 440 (C.D. Cal. 2013) and *Rahman v. San Diego Accounts Serv.*, 2017 WL 1387206, at *2 (S.D. Cal. Apr. 18, 2017), persuasive. Specifically, the Court agrees with courts which have held that *Wyshak* relied on *Conley v. Gibson*, 355 U.S. 41, 47-48, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957) in

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CONT... Douglas Jay Roger

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determining the sufficiency of pleading an affirmative defense. Accordingly, when *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 562, 127 S. Ct. 1955, 1969, 167 L. Ed. 2d 929 (2007) abrogated the standard set forth in *Conley*, it followed logically that *Wyshak* necessarily now encompasses the "plausibility" standard; whatever standard "fair notice" previously encompassed no longer exists. *Rahman* at *2. Moreover, as other courts have noted, this Court agrees that the ability of defendants to amend the answer to assert an omitted affirmative defense on the written consent of the adverse party or by leave of the district court renders the imposition of the plausibility standard not overly burdensome. *5 Fed. Prac. & Proc. Civ.* § 1274 (3d ed.).

Application to the Affirmative Defenses asserted in the Answer

First, the Court agrees with the Plaintiffs that the First and Fourth Affirmative Defenses must be stricken. Given that Defendant does not contest the Motion as to these defenses, the Motion is GRANTED as to the First and Fourth Affirmative Defenses.

The Court now turns to the remaining affirmative defenses: the Second Defense (Laches), the Third Defense (Unclean Hands), the Fifth Defense (Good Faith), the Sixth Defense (Failure to Mitigate), the Seventh Affirmative Defense (Offset), and the Eighth Affirmative Defense (Acts of Third Parties). As to these affirmative defenses, the Court follows the approach of *Vogel* as it applies to the facts of the instant case. Here, as in *Vogel*, the Defendant's affirmative defenses provide no grounds for the defenses. The Defendant asks the Court and Plaintiffs to read certain portions of the Answer and Complaint in conjunction and, in turn, to infer and ascribe meaning to the proffered defenses. The Defendant's request, however, is misplaced. As indicated above, *Twombly* and *Wyshak* require that affirmative defenses be plausible. Given the conclusory nature of the Defendant's affirmative defenses as pled, there is insufficient factual support to determine that any of the remaining defenses are plausible.

TENTATIVE RULING

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CONT... Douglas Jay Roger

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Based on the foregoing, the Court is inclined to GRANT the Motion in its entirety, striking all affirmative defenses without prejudice to Defendant's rights under the Federal Rules to seek amendment.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Defendant(s):

Douglas J Roger MD

Represented By
Summer M Shaw
Thomas J Eastmond
Marc C Forsythe

Movant(s):

Revere Financial Corporation, a

Represented By
Franklin R Fraley Jr

Plaintiff(s):

Revere Financial Corporation, a

Represented By
Franklin R Fraley Jr

Jerry Wang

Represented By
Franklin R Fraley Jr
Anthony J Napolitano

A. Cisneros

Represented By
Chad V Haes
D Edward Hays

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar

**United States Bankruptcy Court
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Riverside
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CONT...

Douglas Jay Roger

Carmela Pagay
Franklin R Fraley Jr

Chapter 7

**United States Bankruptcy Court
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Riverside
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2:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:09-01235 DIAMOND v. Empire Partners, Inc., a California Corporation et

#19.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18

EH__

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By
David Loughnot

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Courtroom 303 Calendar**

Wednesday, January 16, 2019

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CONT... Empire Land, LLC

Chapter 7

Jonathan A Loeb
Jeffrey Rosenfeld

DOES 1 through 100, inclusive

Pro Se

Plaintiff(s):

RICHARD K. DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
John P Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

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Wednesday, January 16, 2019

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6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#20.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
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12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb

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Riverside
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CONT... Empire Land, LLC

Chapter 7

James P Previti
Jeffrey Rosenfeld
P Sabin Willett

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day
Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller
Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman
Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP
Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy
Represented By
Howard Steinberg
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND
Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
Cynthia M Cohen

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CONT... Empire Land, LLC

Chapter 7

Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By

Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

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6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01329 DIAMOND v. Empire Partners, Inc., a California Corporation et

#21.00 CONT Status Conference re complaint
(Defendant - Empire Partners, Inc) HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18

EH__

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

Jonathan A Loeb

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CONT... Empire Land, LLC

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	Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Previti Realty Fund, L.P.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
The James Previti Family Trust	Represented By Jonathan A Loeb Jeffrey Rosenfeld

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
John P Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur

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Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

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6:18-12282 Frank Javier Valderrama

Chapter 7

Adv#: 6:18-01141 Balderas et al v. Valderrama

#22.00 Motion to Dismiss Second Amended Complaint

EH__

Docket 24

Tentative Ruling:

1/16/19

BACKGROUND

On March 21, 2018, Frank Valderrama ("Debtor") filed a Chapter 7 voluntary petition. On July 2, 2018, Debtor received a discharge.

On June 25, 2018, Elizabeth Balderas & Jose Carrillo (collectively, "Plaintiffs") filed a complaint against Debtor for non-dischargeability pursuant to 11 U.S.C. § 523(a)(2) (A).

On July 17, 2018, Debtor filed a motion to dismiss for failure to state a claim. On August 10, 2018, Plaintiffs filed their opposition. On September 10, 2018, the Court granted the motion, dismissing the complaint with leave to amend.

On September 28, 2018, Plaintiffs filed an amended complaint (the "FAC"). On October 19, 2018, Debtor filed another motion to dismiss. On October 31, 2018, Plaintiffs filed their opposition. The Court held a hearing on the matter on November 14, 2018. At the hearing of November 14, 2018, the Court stated that Elizabeth

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CONT... Frank Javier Valderrama

Chapter 7

Balderas lacked standing to bring the claims that were the subject of the FAC. The Court also noted that the FAC needed to be revised because parts of the FAC were unclear to the extent of being incomprehensible. The Court dismissed the complaint with leave to amend until December 7, 2018.

On December 7, 2018, Plaintiffs filed a second amended complaint (the "SAC"). The Court notes that while the SAC has dropped the reference to Elizabeth Balderas in the body of the complaint, the caption page of the complaint and the adversary proceeding cover sheet still include reference to Elizabeth Balderas. On December 19, 2018, Debtor filed a motion to dismiss. On January 2, 2019, Plaintiffs filed their opposition.

DISCUSSION

I. MOTION TO DISMISS STANDARD

In order to avoid dismissal pursuant to Civil Rule 12(b)(6), a complaint must allege sufficient factual matter, which if accepted as true, would "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (*quoting Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is facially plausible when a court can draw a reasonable inference that the defendant is liable for misconduct. *Id.* The plaintiff must provide "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Id.*

II. NON-DISCHARGEABILITY STANDARD

As a preliminary note, the Court notes that the format and opposition of the FAC is rather confusing. The adversary proceeding cover sheet and the first page of the complaint identify the complaint as a non-dischargeability complaint under 11 U.S.C. § 523(a)(2) [not itself an actual provision] and § 523(a)(2)(A); three causes of action are likewise identified: (1) breach of written contract; (2) breach of fiduciary duty; and

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CONT... Frank Javier Valderrama
(3) fraud.

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The adversary cover sheet, in the section titled "nature of suit," also checks § 523(a)(4). As was made clear in the previous motion to dismiss tentative rulings, the Court will not address a cause of action which is not clearly asserted in the complaint. Here, once again, Plaintiffs have not actually mentioned § 523(a)(4) in the entirety of the complaint, and, therefore, the Court will construe the FAC as solely a request under § 523(a)(2)(A). As a result, the Court will not address Debtor's argument that Plaintiffs are time-barred from bringing a § 523(a)(4) claim.

11 U.S.C. § 523(a)(2)(A) states:

- (a) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt –
 - (2) for money, property, services, or an extension, renewal, or refinancing of creditor, to the extent obtained by –
 - (A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition;

The elements of a § 523(a)(2)(A) claim are well-established: (a) the debtor made representations; (b) which were known to be false; (c) the representations were made with the intention and purpose of deceiving the creditor; (d) the creditor relied on such representations; (e) the creditor sustained loss and damage as a proximate result of the representations. *See, e.g., In re Sabban*, 600 F.3d 1219, 1222 (9th Cir. 2010).

As noted by Debtor, FED. R. CIV. P. Rule 9(b) is applicable to a § 523(a)(2)(A) non-dischargeability proceeding. *See, e.g., In re Kimmel*, 2008 WL 5076380 at *1 (9th Cir. 2008). "In order to properly plead fraud with particularity, the complaint must allege the time, place, and content of the fraudulent representation such that a defendant can

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CONT... Frank Javier Valderrama

Chapter 7

prepare an adequate response to the allegations." *Id.*

Here, while its organization remains confusing, the FAC does appear to contain allegations which, if liberally construed, amount to a false representation of a material fact. For example, paragraph 35 states:

Each time Plaintiffs made a payment, Debtor assured Plaintiff Carrillo that progress was being made on the project. Debtor assured Plaintiff Carrillo that materials and labor were being expended with the money Plaintiff Carrillo paid Debtor. Debtor's representations were false, in that, at the meeting of the creditors, Debtor testified under oath that he did not use any money he received by Plaintiff Carrillo to pay for material or labor.

The FAC also contains different variations, in different locations, of the following assertion, found in ¶ 40: "Debtor intentionally withheld the true information from Plaintiff Carrillo so that Plaintiff Carrillo and other [sic] would continue to pay Debtor money." Regarding the element of reliance, the Court notes that ¶ 32 concludes by stating: "Plaintiff Carrillo would not have paid Debtor additional funds had he known that Debtor was keeping the money for himself," which could be construed as alleging reliance on the part of Plaintiff. Debtor has not argued that Plaintiff have failed to adequately allege damages, and it seems clear that the element of damages had been adequately asserted.

Turning to the heightened pleading standard of FED. R. CIV. P. Rule 9(b), it would appear that the FAC, if liberally construed, does contain allegations of fraudulent representations with sufficient particularity. Specifically, for example, paragraph 35, reproduced above, appears to allege that Debtor asserted he was spending the money on materials and constructions each time that a payment was made. Given that paragraph ¶ 36 identifies a list of dates when payments were made, it would appear that, taking the FAC as a whole, there are adequate assertions of a particular representation, made by a particular person, on a particular date.

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CONT... Frank Javier Valderrama

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In Debtor's motion to dismiss, Debtor appears to assert that the FAC fails to plead fraud with particularity because "[t]here is no allegation that any payment was made as a result of any specific misrepresentation." [Dkt. No. 24, pg. 9]. As the Court noted above, there are certain sections of the FAC, such as ¶ 32, which assert that Debtor would not have made payments to Debtor, if not for Debtor's representation that the money was being spent on materials and construction. It would appear that such allegations are adequate to allege fraud with particularity.

Debtor also argues that the first cause of action, breach of contract, should be dismissed as a matter of law because the cause of action is not a basis to hold a debt to be non-dischargeable. The Court notes, however, that the tentative ruling of August 29, 2018, pointed out that if Plaintiffs wished to obtain a money judgment, Plaintiffs would need to articulate the legal basis for that debt so that the Court would have a basis to liquidate the debt. While it is not clear from the face of the FAC, it would appear that the cause of action for breach of contract was not intended to serve as a basis for non-dischargeability, but, rather, a basis for a money judgment. Furthermore, given the references to state law and the absence of any reference to 11 U.S.C. § 523(a)(4), it appears that the second cause of action, for breach of fiduciary duty, also may serve the same purpose. While it is debatable whether "breach of contract" and "breach of fiduciary duty" should serve as independent causes of action, the Court understands them to serve as simply providing the legal basis of the alleged debt, which would only be relevant if Plaintiffs were to prevail on the § 523(a)(2)(A) claim.

Debtor argues that the retention of Elizabeth Balderas on the caption page of the complaint and on the adversary proceeding cover sheet is "frivolous and included in bad faith." [Dkt. No. 24, pg. 7]. As noted above, Elizabeth Balderas has been removed from the body of the complaint. The Court notes that, given that this is the third motion to dismiss, both parties have retained language from prior pleadings in their instant pleadings, some of which is inappropriate given the previous tentative rulings.

TENTATIVE RULING

The Court is inclined to GRANT the motion to remove Elizabeth Balderas as a named

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CONT... **Frank Javier Valderrama**
 plaintiff in this action, and to remove reference to § 523(a)(2).

Chapter 7

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Defendant(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Movant(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Plaintiff(s):

Elizabeth Balderas

Represented By
John F Bazan

Jose Carrillo

Represented By
John F Bazan

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, January 16, 2019

Hearing Room 303

2:00 PM

6:17-16417 Robert H Mills, III

Chapter 7

Adv#: 6:17-01225 Liquid Capital Exchange, Inc. v. Mills, III

#23.00 Motion For Summary Judgment or in the Alternative Summary Adjudication

EH ____

Docket 23

Tentative Ruling:

1/16/19

BACKGROUND

On August 1, 2017, Robert Mills ("Debtor") filed a Chapter 7 voluntary petition. On November 6, 2017, Liquid Capital Exchange, Inc. ("Plaintiff") filed a complaint against Debtor for nondischargeability pursuant to 11 U.S.C. § 523(a)(2)(A) & (a)(6). On December 6, 2017, Debtor filed his answer. On October 1, 2018, after a stipulation between the parties was approved by the Court, Debtor filed an amended answer.

On November 27, 2018, Debtor filed a motion for summary judgment. Debtor argues that Plaintiff's claims for relief are barred by the applicable statute of limitations. On December 26, 2018, Plaintiff filed its opposition.

On January 3, 2019, Debtor's counsel, Todd Turoci, filed a motion to withdraw as attorney. Given the date of the filing of the motion, the Court will not rule on the motion to withdraw until after the summary judgment hearing.

The pertinent facts, which are detailed in the respective pleadings and the complaint,

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CONT...

Robert H Mills, III

Chapter 7

are not much in dispute and will only be concisely summarized here. On September 24, 2014, Plaintiff filed state court litigation against Debtor and other parties in relation to previous business dealings. The claims for relief in the state court complaint were: (a) breach of written PSA; (b) breach of guarantee; (c) breach of validity certificate; (d) breach of workout agreement; (e) money due; (f) account stated; (7) two counts of conversion. Only the second, third, fourth, and sixth claims for relief were brought against Debtor. On November 18, 2014, Debtor filed a countercomplaint. After Debtor filed bankruptcy, Plaintiff filed the instant adversary proceeding and, on December 22, 2017, Plaintiff withdrew its state court complaint.

Debtor now argues that the voluntary dismissal of the state court complaint results in the application of a statute of limitations period calculated as if the state court litigation had never been brought. Debtor further argues that such a calculation would result in the instant adversary proceeding being barred.

DISCUSSION

I. *Summary Judgment Standard*

Summary judgment should be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. FED. R. CIV. P. Rule 56(a) (incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7056).

The moving party has the burden of establishing the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). If the moving party shows the absence of a genuine issue of material fact, the nonmoving party must go beyond the pleadings and identify facts that show a genuine issue for trial. *Id.* at 324. The court must view the evidence in the light most favorable to the nonmoving party. *Bell v. Cameron Meadows Land Co.*, 669 F.2d 1278, 1284 (9th Cir. 1982). All reasonable doubt as to the existence of a genuine issue of fact should be resolved against the moving party. *Hector v. Wiens*, 533 F.2d 429, 432 (9th Cir. 1976).

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CONT... **Robert H Mills, III**

Chapter 7

If the moving party meets its initial burden, the non-moving party must set forth, by affidavit or as otherwise provided in Rule 56, specific facts showing that there is a genuine issue for trial. *Id.* However, the non-moving party "must do more than simply show that there is some metaphysical doubt as to the material fact...." *Matsushita Electrical Industry Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-587 (1986).

A fact is material if it "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.*

II. Statute of Limitations

CAL. CIV. PROC. CODE § 338(d) provides for a statute of limitations of three years for "[a]n action for relief on the ground of fraud or mistake. The cause of action in that case is not deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake." Debtor argues that because Plaintiff did not timely bring a claim for fraud, the nondischargeability proceeding is time barred.

Debtor's argument is unsuccessful for the reasons articulated in *In re Banks*, 263 F.3d 862, 868-69 (9th Cir. 2001). As is noted by Plaintiff, the Ninth Circuit in *Banks* arrived at the conclusion that the filing of a state court lawsuit, which does not include a claim for fraud, can properly preserve and establish a claim, and that that claim can then constitute the debt which is the basis of the nondischargeability complaint.

Here, Plaintiff filed a state court complaint which includes claims for relief against Debtor on the grounds of: (a) breach of guarantee; (b) breach of validity certificate; (c) breach of workout agreement; and (d) account stated. Therefore, Plaintiff timely established those claims against Debtor. Those timely established claims can then constitute the "debt" underlying a § 523(a)(2)(A) claim. In summary, it is not a firm requirement that a creditor timely establish a claim for fraud in order to bring a § 523(a)(2)(A) claim. Timely establishing a claim based on a different theory of liability, if such claim fits within the § 523(a)(2)(A), is sufficient.¹

In the reply, Debtor attempts to distinguish the instant situation based on the fact that Plaintiff voluntarily dismissed its state court litigation. This distinction is without merit here, however, because such voluntary dismissal occurred after the instant adversary proceeding was filed. The operative date for determining whether a complaint is barred by the statute of limitations is the date of the filing of that

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Robert H Mills, III

Chapter 7

complaint. When the instant adversary proceeding was filed, the state court litigation was still pending, and, therefore, this action was timely filed.

For the reasons stated above, the Court finds that the state court complaint filed by Plaintiff timely established a debt, and that Plaintiff is entitled to attempt to fit that timely established debt within the statutory nondischargeability provisions identified in the complaint.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Robert H Mills III

Represented By
Catherine Christiansen

Defendant(s):

Robert H. Mills III

Represented By
Todd L Turoci

Movant(s):

Robert H. Mills III

Represented By
Todd L Turoci

Plaintiff(s):

Liquid Capital Exchange, Inc.

Represented By
Christopher J Langley

Trustee(s):

Steven M Speier (TR)

Pro Se

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CONT... Robert H Mills, III

Chapter 7

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2:00 PM

6:18-12440 Paul Pound

Chapter 7

Adv#: 6:18-01147 Lloyd v. Pound

#24.00 CONT Motion For Summary Judgment

From: 11/14/18, 12/5/18

Also #25

EH__

Docket 6

*** VACATED *** REASON: CONTINUED TO 2/6/19 AT 2:00 P.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Pound

Represented By
Todd L Turoci

Defendant(s):

Paul M Pound

Represented By
Todd L Turoci

Movant(s):

April Lloyd

Represented By
Chane Buck

Plaintiff(s):

April Lloyd

Represented By
Chane Buck

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:18-12440 Paul Pound

Chapter 7

Adv#: 6:18-01147 Lloyd v. Pound

#25.00 CONT Status Conference RE: Complaint by April Lloyd against Paul M Pound. 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

From: 9/5/18, 11/14/18, 12/5/18

Also #24

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 2/6/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Pound

Represented By
Todd L Turoci

Defendant(s):

Paul M Pound

Represented By
Todd L Turoci

Plaintiff(s):

April Lloyd

Represented By
Chane Buck

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

3:00 PM

6:18-20547 Tawnie L Vanderham

Chapter 13

#26.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

MOVANT: TAWNIE VANDERHAM

From: 1/15/19

EH__

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tawnie L Vanderham

Represented By
Benjamin R Heston

Movant(s):

Tawnie L Vanderham

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:11-40033 Maria G. Suarez and Juan M. Suarez

Chapter 13

#1.00 Motion to Reopen Chapter 13 Case to obtain an order, after receipt of a chapter 13 discharge, to avoid a junior lien that was the subject of a successful motion under 11 U.S.C. §506(d)

EH__

Docket 84

Tentative Ruling:

01/17/2019

BACKGROUND

Debtors filed their petition for bankruptcy relief on September 23, 2011 and received a discharge on February 22, 2017. During the pendency of the case, the Debtors sought and obtained a motion to avoid a junior lien encumbering their principal residence located at 2628 S. Goldcrest Ave, Ontario, CA ("Property"), which motion was granted conditioned upon receipt of a chapter 13 discharge. Debtors failed to obtain an order finally avoiding the lien post-discharge and the case was closed on March 31, 2017. On December 27, 2018, Debtors filed a Motion to Reopen Chapter 13 Case ("Motion"). The filing fee has been paid, service was proper, and the Motion is unopposed.

DISCUSSION

A bankruptcy judge may consider a number of nonexclusive factors in determining whether to reopen, including (1) the length of time that the case has been closed; (2) whether the debtor would be entitled to relief if the case were reopened; and (3) the availability of nonbankruptcy courts, such as state courts, to entertain the claims. *In re Antonious*, 373 B.R. 400, 405-06 (Bankr.E.D.Pa.2007); *see* 11 U.S.C. § 350.

Here, Debtors' case has been closed since for nearly two years. The lapse in

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CONT... Maria G. Suarez and Juan M. Suarez

Chapter 13

time since case closing is substantial. However, the Debtors have offered evidence that the extended lapse in time arose from potentially excusable neglect on the part of their prior counsel. Evidence that the Debtors' prior counsel misplaced their file and failed to file a declaration and order militates in favor of granting the Motion to avoid prejudicing the Debtors for the actions of prior counsel.

The Debtors have requested relief that can be obtained in a reopened bankruptcy case and which is unique to the bankruptcy court's powers under Title 11. Based on the foregoing, Debtors' request for relief weighs in favor of granting the Motion.

TENTATIVE RULING

The Court is inclined to GRANT the Motion and reopen the case for a period of 45 days to permit the Debtors to seek and obtain a final order avoiding the junior lien encumbering their Property.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Maria G. Suarez

Represented By
Stephen Hosford
Nicholas W Gebelt

Joint Debtor(s):

Juan M. Suarez

Represented By
Stephen Hosford
Nicholas W Gebelt

Movant(s):

Maria G. Suarez

Represented By
Stephen Hosford
Nicholas W Gebelt

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CONT... Maria G. Suarez and Juan M. Suarez

Chapter 13

Juan M. Suarez

Represented By
Stephen Hosford
Nicholas W Gebelt

Trustee(s):

Amrane (RS) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:15-16710 Sean Kirkpatrick

Chapter 13

#2.00 CONT Motion For Sanctions for Violation of the Automatic Stay

From: 12/6/18, 12/20/18

EH__

Docket 65

***** VACATED *** REASON: CONTINUED TO 2/28/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sean Kirkpatrick

Represented By
Javier H Castillo

Movant(s):

Sean Kirkpatrick

Represented By
Javier H Castillo
Javier H Castillo
Javier H Castillo

Trustee(s):

Rod (MJ) Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:17-14619 Candice Maria Borrego

Chapter 13

#3.00 Application for Compensation for Andy C Warshaw, Debtor's Attorney, Period: 3/1/2018 to 12/21/2018, Fee: \$775, Expenses: \$75.

EH__

Docket 72

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Candice Maria Borrego

Represented By
Andy C Warshaw

Movant(s):

Candice Maria Borrego

Represented By
Andy C Warshaw
Andy C Warshaw
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:17-15032 Ruben Lopez and Jessica Lopez

Chapter 13

#4.00 Motion to Disallow Claims of CACH, LLC its successors and assigns as assignee of Capital One Bank (USA), N.A.

EH__

Docket 47

Tentative Ruling:

01/17/2019

BACKGROUND:

On June 16, 2017, Ruben and Jessica Lopez (collectively, "Debtors") filed their petition for chapter 13 relief. On December 10, 2018, the Debtors filed objection to Claim No. 8 (the "Claim") of CACH, LLC, as successor-in-interest to Capital One Bank, N.A ("Claimant"). Service was proper, and no opposition has been filed.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *United States v. Offord Fin., Inc., (In re Medina)*, 205 B.R. 216,222 (9th Cir. BAP 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to

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CONT... Ruben Lopez and Jessica Lopez

Chapter 13

defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (quoting *In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (quoting *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *Ashford v. Consol. Pioneer Mort. (In re Consol. Pioneer Mort.)*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (quoting *Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *Lundell*, 223 F.3d at 1039; *Holm*, 931 F.2d at 623.

ANALYSIS:

Rebuttal of the Prima Facie Proof of Claim

In this case, the Debtors assert that the Claim should be disallowed as time barred. Section 502(b)(1) provides that a claim is deemed allowed, unless such claim is unenforceable against the debtor and property of the debtor under applicable law. The statute of limitations applicable to common counts is four years if the action is founded upon a contract or other writing (e.g., "book account" (§ 3:398), "account stated" (§ 3:400), or money lent on a note), and the statute of limitations is generally four years from the date of the last item in the account. CCP § 337(1),(2); *Armstrong Petroleum Corp. v. Tri-Valley Oil & Gas Co.*, 116 CA 4th 1375, 1396, FN. 9 (Cal. App. 2004).

Here, the Debtors have provided evidence that the last transaction between Debtors and the original creditor took place on January 30, 2013. The Debtors have established that over four years have lapsed since the last item in the account. Thus, the burden to show the validity of Claim No. 8 must shift to Claimant. Claimant, however, though properly served, has failed to respond, which may be deemed as consent to the relief requested under LBR 9013-1(h). Thus, as the ultimate burden of persuasion remains on the Claimant, the Objection must be sustained.

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CONT... Ruben Lopez and Jessica Lopez

Chapter 13

TENTATIVE RULING

The Objection is SUSTAINED. Claim #8 is disallowed in its entirety.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Ruben Lopez

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Jessica Lopez

Represented By
Terrence Fantauzzi

Movant(s):

Ruben Lopez

Represented By
Terrence Fantauzzi
Terrence Fantauzzi
Terrence Fantauzzi

Jessica Lopez

Represented By
Terrence Fantauzzi
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:17-20473 Felipe Gerardo

Chapter 13

Adv#: 6:18-01225 Turoci et al v. Cuevas jr. et al

#5.00 Status Conference RE: [1] Adversary case 6:18-ap-01225. Complaint by Todd Turoci, Luis G. Torres against Jamie Alberto Cuevas jr., Gloria Valenzuela, Wagner Segura, The Law Offices of Jamie A. Cuevas Jr. Inc.. Todd)

EH__

Docket 1

***** VACATED *** REASON: ORDER DISMISSING ADVERSARY COMPLAINT FILED 1/17/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Felipe Gerardo

Represented By
Jaime A Cuevas Jr.

Defendant(s):

Jamie Alberto Cuevas jr.

Represented By
Nicholas W Gebelt

Gloria Valenzuela

Represented By
Nicholas W Gebelt

Wagner Segura

Represented By
Nicholas W Gebelt

The Law Offices of Jamie A. Cuevas

Represented By
Nicholas W Gebelt

Plaintiff(s):

Todd Turoci

Represented By
Todd L Turoci

Luis G. Torres

Represented By

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CONT... Felipe Gerardo

Todd L Turoci

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:18-10170 Vernita Goodwin

Chapter 13

#6.00 CONT Trustee's Motion to Dismiss Case

From: 12/20/18

Also #7

EH ____

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-10170 Vernita Goodwin

Chapter 13

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

Also #6

EH__

Docket 73

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Movant(s):

Vernita Goodwin

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-12992 Charles Henry Sacayan and Catherine Angela McNicholas

Chapter 13

#8.00 Trustee's Motion to Dismiss Case

Also #9

EH__

Docket 62

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Henry Sacayan

Represented By
Ethan Kiwhan Chin

Joint Debtor(s):

Catherine Angela McNicholas

Represented By
Ethan Kiwhan Chin

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:18-12992 Charles Henry Sacayan and Catherine Angela McNicholas

Chapter 13

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

Also #8

EH__

Docket 66

Tentative Ruling:

Motion GRANTED.

Appearances Waived. Movant to lodge an order within 7 days.

Party Information

Debtor(s):

Charles Henry Sacayan

Represented By
Ethan Kiwhan Chin

Joint Debtor(s):

Catherine Angela McNicholas

Represented By
Ethan Kiwhan Chin

Movant(s):

Charles Henry Sacayan

Represented By
Ethan Kiwhan Chin

Catherine Angela McNicholas

Represented By
Ethan Kiwhan Chin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:18-17556 Daniel Javier Garcia

Chapter 13

#10.00 CONT Motion to Authorize Loan Modification (LMM) with Flagstar Bank or for an Order Permitting Parties to enter into such an agreement

From: 11/8/18

Also #11

EH__

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Javier Garcia

Represented By
Steven A Alpert

Movant(s):

Daniel Javier Garcia

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:18-17556 Daniel Javier Garcia

Chapter 13

#11.00 CONT Confirmation of Chapter 13 Plan

From: 11/8/18

Also #10

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Javier Garcia

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-18847 Jennifer Lee Minkalis

Chapter 13

#12.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Lee Minkalis

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-18859 Lawrence Sendejas, Jr. and Denise Sendejas

Chapter 13

#13.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lawrence Sendejas Jr.

Represented By
Raj T Wadhvani

Joint Debtor(s):

Denise Sendejas

Represented By
Raj T Wadhvani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:18-19440 Randy Radford

Chapter 13

#14.00 Motion For Order Compelling Attorney To File Disclosure Of Compensation Pursuant To 11 U.S.C. § 329 And Federal Rule Of Bankruptcy Procedure 2016

EH ____

Docket 11

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/13/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Randy Radford

Represented By
Michael Avanesian

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Rod (MH) Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19594 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19595 Richard Lee Bigham

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Lee Bigham

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19611 Pearl Bluit

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pearl Bluit

Represented By
Kenneth D Sisco

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19628 Reynaldo Perez and Gatziry Zeledon

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reynaldo Perez

Represented By
Paul Y Lee

Joint Debtor(s):

Gatziry Zeledon

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19635 Tonya L Jenkins

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tonya L Jenkins

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19637 Malerie B Barrozo

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malerie B Barrozo

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19675 Jon Patrick Park

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/3/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jon Patrick Park

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19676 Cesar Perez

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cesar Perez

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19696 Corinthia A. Williams

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Corinthia A. Williams

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19704 Leticia Arthur

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Leticia Arthur

Represented By
Donald J Gagnon III

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19708 Ulysses Bautista

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/7/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ulysses Bautista

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19729 John R Saxton

Chapter 13

#26.00 Motion to Avoid Lien Capital One Bank (USA), N.A.

Also #27 - #29

EH__

Docket 12

Tentative Ruling:

01/17/2019

DISCUSSION

On November 16, 2018, John Saxton ("Debtor") filed his petition for chapter 13 relief. The Debtor's schedules indicated total property assets valued at no more than \$43,072. The primary assets of the estate are a 2013 Pleasure Way Traverse Motorhome (the "Motorhome") and a Ford E150 and a 1972 Viking (the "Vehicles").

Pursuant to 11 U.S.C. § 522(f), judicial or nonpossessory, nonpurchase money security interest liens are avoided only to the extent they impair an exemption claimed by the debtor in the bankruptcy case.

A lien "impairs" an exemption to the extent that:

- the amount of the lien,
- plus the amount of all other liens on the property,
- plus the amount the debtor could claim as exempt if there were no liens on the property,

exceeds the value the debtor's interest in the property would have in the absence of any liens.

In re Higgins, 201 BR 965, 967 (9th Cir. BAP 1996).

Here, the Debtor has filed three motions to avoid lien:

1. Motion to Avoid the Lien of Capital One Bank in the amount of \$3,248.66;
2. Motion to Avoid the Lien of Capital One Bank in the amount of \$3,895.57;
- and
3. Motion to Avoid the Lien of Synchrony Bank in the amount of \$4,242.35

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

CONT...

John R Saxton
(the "Motions")

Chapter 13

The Motions indicate that the creditors identified by the Debtor hold liens against the Debtor's personal property, not against any real property. First, it is not clear from the Abstracts of Judgments what, if any, property the recorded judgments attach to. Second, a review of the leading California practice guide regarding enforcement of judgments indicates that the judgments obtained by the Debtor's creditors cannot attach to the Debtors' interests in the Vehicles or Motorhome. *Cal. Prac. Guide Enf. J. & Debt* Ch. 6C-2, Types of Property Subject to JLPP, and that judgment liens against personal property, generally, can **only** attach to:

- Accounts receivable and the judgment debtor is located in this state;
- Tangible chattel paper (as defined in Comm'l C. § 9102(a)(79)) and the judgment debtor is located in this state;
- Equipment located within this state;
- Farm products located within this state;
- Inventory located within this state (but not including retail inventory items with a unit retail value of less than \$500; CCP § 697.530(d)(3)); and
- Negotiable documents of title located within this state. [CCP § 697.530(a)].

Id. A review of the Debtor's schedules A & B indicates that the Debtor's assets do not fall within any of the categories of personal property upon which a judgment lien on personal property can attach.

TENTATIVE RULING

For the foregoing reasons, the tentative ruling is to DENY the Motion without prejudice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

John R Saxton

Represented By
Andy C Warshaw

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

CONT... John R Saxton

Chapter 13

Movant(s):

John R Saxton

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19729 John R Saxton

Chapter 13

#27.00 Motion to Avoid Lien Capital One Bank (USA), N.A.

Also #26 - #29

EH__

Docket 13

Tentative Ruling:

01/17/2019

DISCUSSION

On November 16, 2018, John Saxton ("Debtor") filed his petition for chapter 13 relief. The Debtor's schedules indicated total property assets valued at no more than \$43,072. The primary assets of the estate are a 2013 Pleasure Way Traverse Motorhome (the "Motorhome") and a Ford E150 and a 1972 Viking (the "Vehicles").

Pursuant to 11 U.S.C. § 522(f), judicial or nonpossessory, nonpurchase money security interest liens are avoided only to the extent they impair an exemption claimed by the debtor in the bankruptcy case.

A lien "impairs" an exemption to the extent that:

- the amount of the lien,
- plus the amount of all other liens on the property,
- plus the amount the debtor could claim as exempt if there were no liens on the property,

exceeds the value the debtor's interest in the property would have in the absence of any liens.

In re Higgins, 201 BR 965, 967 (9th Cir. BAP 1996).

Here, the Debtor has filed three motions to avoid lien:

1. Motion to Avoid the Lien of Capital One Bank in the amount of \$3,248.66;
2. Motion to Avoid the Lien of Capital One Bank in the amount of \$3,895.57;
- and
3. Motion to Avoid the Lien of Synchrony Bank in the amount of \$4,242.35

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

CONT...

John R Saxton
(the "Motions")

Chapter 13

The Motions indicate that the creditors identified by the Debtor hold liens against the Debtor's personal property, not against any real property. First, it is not clear from the Abstracts of Judgments what, if any, property the recorded judgments attach to. Second, a review of the leading California practice guide regarding enforcement of judgments indicates that the judgments obtained by the Debtor's creditors cannot attach to the Debtors' interests in the Vehicles or Motorhome. *Cal. Prac. Guide Enf. J. & Debt* Ch. 6C-2, Types of Property Subject to JLPP, and that judgment liens against personal property, generally, can **only** attach to:

- Accounts receivable and the judgment debtor is located in this state;
- Tangible chattel paper (as defined in Comm'l C. § 9102(a)(79)) and the judgment debtor is located in this state;
- Equipment located within this state;
- Farm products located within this state;
- Inventory located within this state (but not including retail inventory items with a unit retail value of less than \$500; CCP § 697.530(d)(3)); and
- Negotiable documents of title located within this state. [CCP § 697.530(a)].

Id. A review of the Debtor's schedules A & B indicates that the Debtor's assets do not fall within any of the categories of personal property upon which a judgment lien on personal property can attach.

TENTATIVE RULING

For the foregoing reasons, the tentative ruling is to DENY the Motion without prejudice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

John R Saxton

Represented By
Andy C Warshaw

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

CONT... John R Saxton

Chapter 13

Movant(s):

John R Saxton

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19729 John R Saxton

Chapter 13

#28.00 Motion to Avoid Lien Synchrony Bank

Also #26 - #29

EH__

Docket 14

Tentative Ruling:

01/17/2019

DISCUSSION

On November 16, 2018, John Saxton ("Debtor") filed his petition for chapter 13 relief. The Debtor's schedules indicated total property assets valued at no more than \$43,072. The primary assets of the estate are a 2013 Pleasure Way Traverse Motorhome (the "Motorhome") and a Ford E150 and a 1972 Viking (the "Vehicles").

Pursuant to 11 U.S.C. § 522(f), judicial or nonpossessory, nonpurchase money security interest liens are avoided only to the extent they impair an exemption claimed by the debtor in the bankruptcy case.

A lien "impairs" an exemption to the extent that:

- the amount of the lien,
- plus the amount of all other liens on the property,
- plus the amount the debtor could claim as exempt if there were no liens on the property,

exceeds the value the debtor's interest in the property would have in the absence of any liens.

In re Higgins, 201 BR 965, 967 (9th Cir. BAP 1996).

Here, the Debtor has filed three motions to avoid lien:

1. Motion to Avoid the Lien of Capital One Bank in the amount of \$3,248.66;
2. Motion to Avoid the Lien of Capital One Bank in the amount of \$3,895.57;
- and
3. Motion to Avoid the Lien of Synchrony Bank in the amount of \$4,242.35

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

CONT...

John R Saxton
(the "Motions")

Chapter 13

The Motions indicate that the creditors identified by the Debtor hold liens against the Debtor's personal property, not against any real property. First, it is not clear from the Abstracts of Judgments what, if any, property the recorded judgments attach to. Second, a review of the leading California practice guide regarding enforcement of judgments indicates that the judgments obtained by the Debtor's creditors cannot attach to the Debtors' interests in the Vehicles or Motorhome. *Cal. Prac. Guide Enf. J. & Debt* Ch. 6C-2, Types of Property Subject to JLPP, and that judgment liens against personal property, generally, can **only** attach to:

- Accounts receivable and the judgment debtor is located in this state;
- Tangible chattel paper (as defined in Comm'l C. § 9102(a)(79)) and the judgment debtor is located in this state;
- Equipment located within this state;
- Farm products located within this state;
- Inventory located within this state (but not including retail inventory items with a unit retail value of less than \$500; CCP § 697.530(d)(3)); and
- Negotiable documents of title located within this state. [CCP § 697.530(a)].

Id. A review of the Debtor's schedules A & B indicates that the Debtor's assets do not fall within any of the categories of personal property upon which a judgment lien on personal property can attach.

TENTATIVE RULING

For the foregoing reasons, the tentative ruling is to DENY the Motion without prejudice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

John R Saxton

Represented By
Andy C Warshaw

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

CONT... John R Saxton

Chapter 13

Movant(s):

John R Saxton

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19729 John R Saxton

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

Also #26 - #28

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John R Saxton

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19737 Abelardo Magana and Santos Magana

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Abelardo Magana

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Santos Magana

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19781 Adolfo Nabor

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Adolfo Nabor

Represented By
Jaime G Monteclaro

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19792 Biani Berlenda Mora

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Biani Berlenda Mora

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19793 Jose Luis Garcia

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/7/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Luis Garcia

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19821 Elicela Gramajo

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 1/9/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elicela Gramajo

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19840 Alfonso Herrera Mendez and Juana Ceja Mendez

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfonso Herrera Mendez

Represented By
Christopher J Langley

Joint Debtor(s):

Juana Ceja Mendez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19841 Jorge Lino Madrigal

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/17/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Lino Madrigal

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19854 Mourence Eugene Burris

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mourence Eugene Burris

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19867 LaKecha Marie Haley Mays

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LaKecha Marie Haley Mays Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19868 James T Guzman

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/10/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James T Guzman

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19883 Lucy D Aguilar

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/10/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lucy D Aguilar

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-19894 Noemi Meraz Espinoza

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Noemi Meraz Espinoza

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

6:18-20272 John Ryan

Chapter 13

#42.00 Motion By United States Trustee To Dismiss Chapter 13 Case With A Re-Filing Bar

CASE DISMISSED 12/21/18

EH__

Docket 11

Tentative Ruling:

01/17/2019

BACKGROUND

On December 6, 2018 ("Petition Date"), John Ryan (the "Debtor") filed a petition for chapter 13 relief.

The Debtor's case was dismissed on December 21, 2018, for failure to file the balance of schedules which were due on December 20, 2018. On the date of the dismissal, the Office of the United States Trustee ("UST") filed a Motion to Dismiss Chapter 13 Case with A Re-Filing Bar ("Motion"). Having previously entered a dismissal order, the Court will narrowly consider the propriety of amending the dismissal order to include a re-filing bar. Service was proper and no opposition has been filed.

DISCUSSION

The UST asserts that a bar of up to three years is warranted. The UST's Motion includes evidence that the Debtor filed 6 cases in 2018. Five cases, including the instant case, were dismissed for failure to file information. The sixth case was dismissed for failure to pay the filing fee. In addition to the serial filings, the UST has provided evidence that the Debtor likely used another person's social security number in at least one of his prior filings. Based on the dismissal of the Debtor's prior cases for failure to file documents, the failure of the Debtor to comply with the duties of a debtor, the history of dismissed filings, and the filing of the instant case seemingly for no other purpose than to frustrate creditors, dismissal with a bar is warranted.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:00 AM

CONT...

John Ryan

Chapter 13

The Court finds that Debtors apparent attempts to file bankruptcy for the sole purpose of forestalling creditors, and in particular, the egregious conduct in using a false social security number, warrants a three-year bar under the Court's § 105 and § 349 authority as requested by the UST.

TENTATIVE RULING

Based on the foregoing, including the Debtor's failure to file opposition which this Court deems as consent to the granting of the Motion under LBR 9013-1(h), the Court is inclined to DENY the request for dismissal as moot and GRANT the Motion as to the request for a refiling bar.

APPEARANCES WAIVED. UST is to lodge an order amending the dismissal order to include a bar as soon as resources permit such order to be lodged.

Party Information

Debtor(s):

John Ryan

Pro Se

Movant(s):

United States Trustee (RS)

Represented By

Abram Feuerstein esq

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:01 AM

6:16-14987 Susana Olga Corona

Chapter 13

#43.00 CONT Trustee's Motion to Dismiss Case

From: 12/20/18

EH__

Docket 125

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Susana Olga Corona

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:01 AM

6:17-10082 Francisco R Palacios

Chapter 13

#44.00 CONT Trustee's Motion to Dismiss Case

From: 11/29/18, 12/20/18, 1/10/19

EH__

Docket 176

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Francisco R Palacios

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 17, 2019

Hearing Room 303

11:01 AM

6:17-13686 David K Johnson and Janet L Johnson

Chapter 13

#45.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David K Johnson

Represented By
Gary J Holt

Joint Debtor(s):

Janet L Johnson

Represented By
Gary J Holt

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:01 AM

6:18-11416 Darlene J. Wadler

Chapter 13

#46.00 CONT Trustee's Motion to Dismiss Case

From: 7/23/18, 11/8/18, 12/20/18

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Darlene J. Wadler

Represented By
Michael Jay Berger

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:01 AM

6:18-11636 Amanuel Montrell Bradberry and Katrina Lashall

Chapter 13

#47.00 CONT Trustee's Motion to Dismiss Case

From: 12/20/18

EH__

Docket 42

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Amanuel Montrell Bradberry

Represented By
Gary S Saunders

Joint Debtor(s):

Katrina Lashall Bradberry

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 17, 2019

Hearing Room 303

11:01 AM

6:18-12862 Antoinette Marie Tutt

Chapter 13

#48.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Antoinette Marie Tutt

Represented By
Brian C Miles

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:01 AM

6:18-16178 Eriberto A. Sandoval

Chapter 13

#49.00 Trustee's Motion to Dismiss Case

EH ____

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eriberto A. Sandoval

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:01 AM

6:18-16261 Joseph R. Hernandez

Chapter 13

#50.00 Trustee's Motion to Dismiss Case

EH ____

Docket 25

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph R. Hernandez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:01 AM

6:18-16983 Lakendra Johnson

Chapter 13

#51.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lakendra Johnson

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 17, 2019

Hearing Room 303

11:01 AM

6:17-19614 Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH ____

Docket 61

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Joint Debtor(s):

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 22, 2019

Hearing Room 303

9:00 AM

6:18-20759 Elida Soto

Chapter 13

#1.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 13692
Bedford Place, Victorville, CA 92392

MOVANT: ELIDA SOTO

From: 1/15/19

EH__

Docket 12

Party Information

Debtor(s):

Elida Soto

Represented By
William G Cort

Movant(s):

Elida Soto

Represented By
William G Cort

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 22, 2019

Hearing Room 303

9:30 AM

6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#2.00 CONT Evidentiary hearing re Order to Show Cause Why Jesse Bojorquez, American Business Investments, William Morschauser, Stephen Collias and Continental Capital, LLC, Should Not Be Sanctioned for Facilitating Payment to and/or Receiving Payment for Broker Services in Contravention of this Court's August 11, 2003, Sale Order

From: 11/5/18

EH__

Docket 242

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan

Stephen Collias

Represented By
Cara J Hagan

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 22, 2019

Hearing Room 303

9:30 AM

CONT... Devore Stop A General Partners

Chapter 7

Mohammed Abdizadeh

Pro Se

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 23, 2019

Hearing Room 303

9:30 AM

6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#1.00 CONT Evidentiary hearing re Order to Show Cause Why Jesse Bojorquez, American Business Investments, William Morschauser, Stephen Collias and Continental Capital, LLC, Should Not Be Sanctioned for Facilitating Payment to and/or Receiving Payment for Broker Services in Contravention of this Court's August 11, 2003, Sale Order

From: 1/22/19

EH__

Docket 242

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan

Stephen Collias

Represented By
Cara J Hagan

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 23, 2019

Hearing Room 303

9:30 AM

CONT... Devore Stop A General Partners

Chapter 7

Mohammed Abdizadeh

Pro Se

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 23, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:17-01085 PRINGLE v. Winn et al

#2.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01085. Complaint by JOHN P PRINGLE against Ralph Winn. (Charge To Estate - \$350.00). and other Defendants including DOES 1-25 Nature of Suit: 12 - Recovery of money/property - 547 preference, 13-Recovery of money/property - 548 fraudulent transfer, 21-Validity, priority or extent of lien or other interest in property,14 - Recovery of money/property - other, 91- Declaratory judgment)

From: 7/12/17, 8/23/17, 10/25/17, 5/16/18, 6/27/18, 9/26/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Ralph Winn

Represented By
Douglas A Plazak

Sterling Security Service, Inc.

Represented By
Seth W Wiener

Natalia V Knoch

Represented By
Seth W Wiener

Steven B Knoch

Represented By
Seth W Wiener

Stacy Winn

Represented By
Douglas A Plazak

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 23, 2019

Hearing Room 303

2:00 PM

CONT... Home Security Stores, Inc.

Chapter 7

Plaintiff(s):

JOHN P PRINGLE

Represented By
Charity J Manee
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 24, 2019

Hearing Room 303

11:00 AM

6:18-10170 Vernita Goodwin

Chapter 13

#1.00 CONT Trustee's Motion to Dismiss Case

From: 12/20/18, 1/17/19

Also #2

EH ____

Docket 66

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 24, 2019

Hearing Room 303

11:00 AM

6:18-10170 Vernita Goodwin

Chapter 13

#1.10 CONT Trustee's Motion to Dismiss Case

From: 1/10/19, Adv. Fr. 2/7/19

EH__

Docket 70

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 24, 2019

Hearing Room 303

11:00 AM

6:18-10170 Vernita Goodwin

Chapter 13

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

From: 1/17/19

Also #1

EH__

Docket 73

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Movant(s):

Vernita Goodwin

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 24, 2019

Hearing Room 303

11:00 AM

6:18-17556 Daniel Javier Garcia

Chapter 13

#3.00 CONT Confirmation of Chapter 13 Plan

From: 11/8/18, 1/17/19

EH __

Docket 0

Party Information

Debtor(s):

Daniel Javier Garcia

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 24, 2019

Hearing Room 303

11:00 AM

6:18-19628 Reynaldo Perez and Gatziry Zeledon

Chapter 13

#4.00 CONT Confirmation of Chapter 13 Plan

From: 1/17/19

EH __

Docket 0

Party Information

Debtor(s):

Reynaldo Perez

Represented By
Paul Y Lee

Joint Debtor(s):

Gatziry Zeledon

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 24, 2019

Hearing Room 303

11:01 AM

6:18-16178 Eriberto A. Sandoval

Chapter 13

#5.00 CONT Trustee's Motion to Dismiss Case

From: 1/17/19

EH ____

Docket 32

Party Information

Debtor(s):

Eriberto A. Sandoval

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:13-20227 James Robert Kinney and Stephanie Mae Kinney

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 14954 GLASGOW COURT, Victorville, CA, 92394 Under 11 U.S.C. § 362
(HOLDING DATE)

MOVANT: NATIONSTAR MORTGAGE LLC dba MR. COOPER

From: 11/13/18, 12/18/18

EH__

Docket 133

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/20/18**

Tentative Ruling:

11/13/18
Service: Proper
Opposition: YES

Debtors dispute that they are behind 9 payments and request a 30-day continuance to establish the payment history.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

James Robert Kinney

Represented By
John F Brady
Lisa H Robinson

Joint Debtor(s):

Stephanie Mae Kinney

Represented By
John F Brady
Lisa H Robinson

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

CONT... James Robert Kinney and Stephanie Mae Kinney

Chapter 13

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:14-18622 Saul Bautista

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11 Della Cava Lane, Lake Elsinore, California 92532

MOVANT: JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

From: 11/27/18, 1/15/19

EH__

Docket 49

***** VACATED *** REASON: ORDER ENTERED 1/15/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Saul Bautista

Represented By
James T Lillard

Movant(s):

JPMORGAN CHASE BANK, N.A.

Represented By
Grace Chang-Rodriguez
Ann Nguyen
Kennessa C Hartin
Delesia Graham
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:14-22637 Michelle Ann Maki

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: (2007 Chevrolet HHR Vin # 3GNDA23D37S523936); In Addition Movant seeks Relief from Co-Debtor Stay

MOVANT: ALLY FINANCIAL INC.

EH__

Docket 111

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/16/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Ann Maki

Represented By
Dana Travis

Movant(s):

Ally Financial Inc.

Represented By
Adam N Barasch

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:14-24553 Brooks L Sternberg and Angela Caldero

Chapter 13

#4.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 10866 Deer Canyon Dr, Rancho Cucamonga, CA, 91737

MOVANT: WELLS FARGO BANK, N.A.

From: 12/18/18

EH__

Docket 68

***** VACATED *** REASON: ORDER ENTERED 12/20/18**

Tentative Ruling:

12/18/2018

Service: Proper

Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
DENY request for APO as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Brooks L Sternberg

Represented By
Julie J Villalobos

Joint Debtor(s):

Angela Caldero

Represented By
Julie J Villalobos

Movant(s):

Wells Fargo Bank, N.A.

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

CONT... Brooks L Sternberg and Angela Caldero

Chapter 13

Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:16-16909 Edward Edmund Zozaya and Georgia Parrilla Zozaya

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 9617 Surrey Ave, Montclair, California 91763

MOVANT: WELLS FARGO BANK, NATIONAL ASSOCIATION

EH__

Docket 234

Tentative Ruling:

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Edward Edmund Zozaya

Represented By
Dana Travis

Joint Debtor(s):

Georgia Parrilla Zozaya

Represented By
Dana Travis

Movant(s):

Wells Fargo BAnk, N.A.

Represented By
April Harriott

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

**CONT... Edward Edmund Zozaya and Georgia Parrilla Zozaya
Sean C Ferry**

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:17-13523 Loretta Chavis

Chapter 13

#6.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 837 Michigan Ave, Beaumont, CA 92223

MOVANT: SUN WEST MORTGAGE COMPANY INC

From: 11/27/18

EH__

Docket 26

Tentative Ruling:

11/27/2018

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3 and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Loretta Chavis

Represented By
Dan Perry

Movant(s):

Sun West Mortgage Company, Inc.,

Represented By
Nichole Glowin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:17-16542 Mike A. Granados, Jr. and Carolynne Jeannette Granados Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 12370 Oaks Avenue, Chino, CA 91710

MOVANT: FREEDOM MORTGAGE CORPORATION

EH__

Docket 38

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: Yes

The motion indicates that Debtors are four months delinquent on postpetition payments. Debtors' opposition, however, appears to argue that Debtors are only approximately two payments delinquent. Parties to discuss this material discrepancy and whether parties desire to enter into an adequate protection agreement.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mike A. Granados Jr.

Represented By
Gregory M Shanfeld

Joint Debtor(s):

Carolynne Jeannette Granados

Represented By
Gregory M Shanfeld
Gabriella Gonzales

Movant(s):

Freedom Mortgage Corporation

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

CONT... Mike A. Granados, Jr. and Carolynne Jeannette Granados Chapter 13
Nancy L Lee
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:17-19614 Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

#8.00 Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2014 BMW 328i Sedan SULEV

MOVANT: BMW BANK OF NORTH AMERICA

EH__

Docket 58

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: Yes

The motion indicates that Debtors are seven months delinquent on postpetition payments. Debtors' opposition, however, appears to show that Debtors are only three months delinquent on postpetition payments. Parties to discuss this material discrepancy and whether parties desire to enter into an adequate protection agreement.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Joint Debtor(s):

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Movant(s):

BMW Bank of North America

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

CONT... Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:17-20377 Deborah L Tafolla

Chapter 13

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6777 Ridgeline Avenue, San Bernardino, CA 92407

MOVANT: NATIONSTAR MORTGAGE LLC

EH__

Docket 38

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/14/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Deborah L Tafolla

Represented By
Jessica De Anda Leon

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Angie M Marth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:18-14388 Jesus Pabloff and Virginia Pabloff

Chapter 13

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 BMW 6 Series, VIN WBA6A0C51FGB53596

MOVANT: AMERICREDIT FINANCIAL SERVICES, INC

EH__

Docket 63

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jesus Pabloff

Represented By
Tom A Moore

Joint Debtor(s):

Virginia Pabloff

Represented By
Tom A Moore

Movant(s):

Americredit Financial Services, Inc.,

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

CONT... Jesus Pabloff and Virginia Pabloff

Chapter 13

Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:18-16220 Paul Sheldon Kirkwood

Chapter 13

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 37244 Fallsgrove Avenue, Murrieta, CA 92563-5080

MOVANT: SUN WEST MORTGAGE COMPANY INC

EH__

Docket 40

*** VACATED *** REASON: ORDER ENTERED 1/28/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Sheldon Kirkwood

Represented By
Michael E Clark

Movant(s):

Sunwest Mortgage Company, Inc.,

Represented By
Nichole Glowin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:18-16261 Joseph R. Hernandez

Chapter 13

#12.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1541 Strawberry Drive, Perris, CA, 92571 UNDER 11 U.S.C. § 362.

MOVANT: NATIONSTAR MORTGAGE LLC

From: 1/8/19

EH__

Docket 26

***** VACATED *** REASON: ORDER ENTERED 1/11/19**

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joseph R. Hernandez

Represented By
Christopher J Langley

Movant(s):

Nationstar Mortgage LLC dba Mr

Represented By
Dane W Exnowski
John D Schlotter

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:18-17349 Thomas More Butler and Tamara Butler

Chapter 13

#13.00 CONT Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2005 Monterey Cruiser Boat & 2006 Trailrite
Trailer

MOVANT: LBS FINANCIAL CREDIT UNION

From: 1/8/19

EH__

Docket 36

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001(a)(3) stay. DENY request for relief from § 1301(a) stay because the motion does not appear to have been served on any "co-debtor," as that term is used in the statute. GRANT requests under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Thomas More Butler

Represented By
Stuart G Steingraber

Joint Debtor(s):

Tamara Butler

Represented By
Stuart G Steingraber

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

CONT... Thomas More Butler and Tamara Butler

Chapter 13

Movant(s):

LBS Financial Credit Union

Represented By
Karel G Rocha

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:18-17605 Joseph N Duguay, II

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 745 E 5th St., Ontario, CA 91764

MOVANT: U.S. BANK TRUST, N.A.

EH__

Docket 41

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joseph N Duguay II

Represented By
Andy C Warshaw

Movant(s):

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

Represented By
Christina J O

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:18-17700 Nick Caropino

Chapter 13

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2339 Three Bar Lane, Norco, CA 92860

MOVANT: NATIONSTAR MORTGAGE LLC

EH__

Docket 33

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3, and 12. DENY alternative request under ¶ 13 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Nick Caropino

Represented By
Julie J Villalobos

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Angie M Marth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:18-19460 Mauricio Trejo and Griselda Trejo

Chapter 7

#16.00 Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2008 Cadillac CTS

MOVANT: GATEWAY ONE LENDING & FINANCE

EH__

Docket 13

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). DENY relief from §§ 1201, 1301 because this is a Chapter 7 proceeding. GRANT relief from Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Mauricio Trejo

Represented By
Keith Q Nguyen

Joint Debtor(s):

Griselda Trejo

Represented By
Keith Q Nguyen

Movant(s):

Gateway One Lending & Finance

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

CONT... Mauricio Trejo and Griselda Trejo

Chapter 7

Karel G Rocha

Trustee(s):

Todd A. Frealy (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:18-19486 Jacqueline Williams

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 Honda Civic, VIN 2HGFG3B56CH543239

MOVANT: CREDIT ACCEPTANCE CORP

EH__

Docket 27

*** VACATED *** REASON: CASE DISMISSED 1/10/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jacqueline Williams

Represented By
Marjan Alitalaei

Movant(s):

Credit Acceptance Corporation

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

10:00 AM

6:19-10070 Jaelyn Roylene Young

Chapter 13

#18.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: JAELYN YOUNG

EH__

Docket 16

Tentative Ruling:

1/29/2019

The Court is inclined to DENY the motion for failure to comply with the Court's self-scheduling instructions. Specifically, the motion indicates that it was served on January 19, 2019, which is four days short of the notice required by this Court's procedures.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jaelyn Roylene Young

Represented By
Christopher J Langley

Movant(s):

Jaelyn Roylene Young

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, January 29, 2019

Hearing Room 303

11:00 AM

6:18-13481 Rorye James Mosley, Sr.

Chapter 13

#19.00 Order To Show Cause Why Brian Soo-Hoo Should Not Be Sanctioned In The Amount Of \$1,000

EH__

Docket 0

*** VACATED *** REASON: CONTINUED TO 3/26/19 AT 11:00 A.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rorye James Mosley Sr.

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

11:00 AM

6:18-20096 Angel Maria Broome

Chapter 7

#19.10 CONT Motion to vacate dismissal and reinstate chapter 7 case

Advanced From: 1/30/19

EH__

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angel Maria Broome	Pro Se
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Movant(s):

Angel Maria Broome	Pro Se
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Trustee(s):

Larry D Simons (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:16-19993 B & B Family, Incorporated

Chapter 11

#20.00 Joint Motion for Order Approving Compromise of Controversy Which Includes Reorganized Debtor Selling Its Business

EH__

Docket 211

***** VACATED *** REASON: CONTINUED TO 3/5/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B & B Family, Incorporated

Represented By
Todd L Turoci
Julie Philippi

Movant(s):

Patricia Forte

Represented By
D Edward Hays

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:16-19993 B & B Family, Incorporated

Chapter 11

Adv#: 6:18-01116 Forte v. B & B Family, Incorporated

#21.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01116. Complaint by Patricia Forte against B & B Family, Incorporated

From: 7/24/18, 7/31/18, 10/9/18, 10/16/18, 11/27/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/5/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B & B Family, Incorporated

Represented By
Todd L Turoci
Julie Philippi

Defendant(s):

B & B Family, Incorporated

Represented By
Todd L Turoci

Plaintiff(s):

Patricia Forte

Represented By
D Edward Hays
Laila Masud

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#22.00 Motion for approval of the adequacy of the chapter 11 disclosure statement

Also #23

EH__

Docket 111

***** VACATED *** REASON: CONTINUED TO 3/5/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

Movant(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#23.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 10/23/18, 11/27/18

Also #22

EH__

Docket 96

*** VACATED *** REASON: CONTINUED TO 3/5/19 AT 2:00 P.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#24.00 CONT Application for Compensation for Nicholas W Gebelt, Debtor's Attorney, Period: 1/26/2018 to 11/21/2018, Fee: \$31,465.00, Expenses: \$673.89.

From: 1/8/19

EH__

Docket 95

***** VACATED *** REASON: CONTINUED TO 3/26/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#25.00 Motion for an Order Granting an Extension of the Deadline for Plan Confirmation in a Small Business Case Pursuant to Bankruptcy Code Section 1129(e)

EH__

Docket 158

Tentative Ruling:

1/29/19

BACKGROUND

On July 12, 2018, LA Steel Services, Inc. ("Debtor") filed a Chapter 11 voluntary petition. On August 30, 2018, the Court entered a scheduling order imposing a deadline of January 8, 2019, for Debtor file its plan and disclosure statement. On January 8, 2019, Debtor filed its Chapter 11 disclosure statement and plan, as well as a motion for approval of the disclosure statement. That same day, Debtor filed the instant motion to extend the deadline for plan confirmation in a small business case. On January 15, 2019, Pacific Steel Group ("Creditor") filed a limited opposition. Creditor's limited opposition requests that the Court limit its review to the § 1129(e) deadline to confirm a Chapter 11 plan in a small business case, and not address the exclusivity deadline imposed by § 1121(e)(1), to the extent that the latter provision is invoked by the motion. While the motion does not appear to address § 1121(e)(1), it appears that the limited opposition may have been filed because Debtor selected an incorrect event code when docketing the motion. On January 22, 2019, Debtor filed its reply, conceding that the motion did not seek to extend the exclusivity, while reserving the right to disagree with certain legal conclusions raised in the opposition.

DISCUSSION

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

CONT... LA Steel Services, Inc., a California corporation

Chapter 11

11 U.S.C. § 1129(e) states:

In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).

And 11 U.S.C. § 1121(e)(3) states:

(3) the time periods specific in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if –

(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

(B) a new deadline is imposed at the time the extension is granted; and

(C) the order extending time is signed before the existing deadline has expired

Here, it appears that service was proper and there are no unresolved objections to the instant motion. Additionally, the most active opposing party in this case, Creditor, has stated that it does not oppose the relief sought in the motion. Furthermore, the Court has reviewed the contents of the motion and concludes that it meets the relatively low burden of "demonstrate[ing] by a preponderance of the evidence that it is more likely than not" that a plan will be confirmed in a reasonable amount of time. Finally, the existing deadline under § 1129(e) is currently February 22, 2019, and, therefore, the Court anticipates that the order will be timely entered pursuant to § 1121(e)(3)(C).

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

CONT... LA Steel Services, Inc., a California corporation

Chapter 11

TENTATIVE RULING

The Court is inclined to GRANT the motion, extending the deadline for plan confirmation to May 8, 2019.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#26.00 Disclosure Statement Describing Debtors Chapter 11 Plan

EH__

Docket 87

***** VACATED *** REASON: CONTINUED TO 2/26/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#27.00 CONT Motion of the Debtor and Debtor-in-Possession for Order Approving Services Agreement with Force 10 Partners, LLC, Pursuant to 11 U.S.C. § 363(b)

From: 11/27/18, 1/15/19

Also #28 - #29

EH__

Docket 154

Tentative Ruling:

BACKGROUND

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor") filed a Chapter 11 voluntary petition. Debtor is a not-for-profit home health services organization with approximately 160 employees and 360 patients. At the time of filing, Debtor had three patients centers: Riverside, Palm Desert, and Murrieta.

On October 23, 2018, the Debtor filed a Motion for Order Approving Services Agreement with Force 10 Partners, LLC ("Motion"), pursuant to 11 U.S.C. § 363(b). On November 6, 2018, the H.N. and Frances C. Berger Foundation ("Foundation") filed opposition to the Motion. The Debtor filed a reply to the Foundations' opposition on November 20, 2018. Subsequently, the parties, including the United States Trustee ("UST") filed a stipulation to continue the hearing and provide new deadlines for supplemental/amended filings. The Court approved the stipulation and continued the hearing.

Per the Court's order, the Debtor was required to file any amendments or revisions by December 11, 2018. Instead, the Debtor delayed in filing its amended motion until December 27, 2018 (the "Amended Motion"). No opposition to the Motion has been

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

CONT... **Visiting Nurse Association of the Inland Counties**
filed.

Chapter 11

DISCUSSION

The Amended Motion seeks approval of a Management Agreement between the Debtor and Force 10, LLC (the "Agreement"). Pursuant to the terms of the Agreement, the Debtor would retain the services of Adam Meislik as Chief Restructuring Officer (CRO) and support services from Force 10 which would be compensated on a monthly basis with Force 10 submitting monthly fee statements on a monthly basis, filed with the Court and served on the UST and other parties in interest. In its prior Opposition, the Foundation was concerned with (1) potential conflicts because Force 10 potentially had a relationship with the Creditor's Committee which would conflict with its duties to the Debtor, (2) the Foundation believed that Force 10 should seek employment under § 327 instead of § 363(b), (3) the original motion did not address the need for nunc pro tunc relief, (4) there was insufficient information regarding the potential impact of the fees or budget as it relates to a case which the Foundation characterized as administratively insolvent, (5) will the hiring of Force 10 impact the salary of the controller; (6) concerns related to the power of the Debtor's Board over the Force 10.

TENTATIVE RULING

Here, given the Debtor's delay in filing the Amended Motion, given that legal issues related to § 327 and § 363(b) have also been raised with regard to employment of Healthsure Management Services, LLC ("HMS"), which is set for hearing on January 29, 2018, and given the issues regarding the estate's capacity to pay the various professionals sought to be employed are related to both motions, the Court is inclined to CONTINUE the hearing on the Amended Motion re: Force 10 to January 29, 2019, at 2:00 p.m., to be heard concurrently with the Motion to Approve Employment of HMS as Management Consultant.

The Court also notes that the Amended Motion was filed and served with insufficient time to be set on regular notice.

APPEARANCES WAIVED. Movant to file and serve an amended notice of hearing on the motion.

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Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

Movant(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
David M Goodrich
Beth Gaschen
Beth Gaschen
Jennifer Vicente
Jennifer Vicente
Ryan W Beall
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#28.00 CONT Motion of the Debtor and Debtor-in- Possession for Order Approving Management Agreement

From: 1/15/19

Also #27 - #29

EH__

Docket 290

Tentative Ruling:

01/29/2019

BACKGROUND

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor") filed a Chapter 11 voluntary petition. Debtor is a not-for-profit home health services organization with approximately 160 employees and 360 patients. At the time of filing, Debtor had three patients centers: Riverside, Palm Desert, and Murrieta.

On December 20, 2018, the Debtor filed a Motion for Order Approving Management Agreement with Healthsure Management Services, LLC (HMS) ("Motion"), pursuant to 11 U.S.C. § 363(b). The Motion seeks an order approving the management agreement with HMS, to provide "management, financial, technology and healthcare services" to the Debtor (the "Agreement"). The Agreement provides for HMS to manage the daily operations of the Debtor with compensation to be paid on a monthly basis, except for a portion that shall be deferred so that the Debtor remains solvent postpetition. (Motion at 2:11-16). HMS has provided management services to the Debtor since October 2016. (Furman Decl. ¶2). Debtor believes approval of the Motion is necessary and appropriate to provide continuity of management of the Debtor. (*Id.* at ¶3). The Debtor seeks approval of the Agreement pursuant to 11 U.S.C. § 363(b).

On January 2, 2019, Jerry Seelig, the Patient Care Ombudsman ("PCO"), filed a statement related to the Motion. On January 2, 2019, the Debtor, Committee, the

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 29, 2019

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2:00 PM

CONT... **Visiting Nurse Association of the Inland Counties**

Chapter 11

H.N. and Frances C. Berger Foundation ("Foundation"), and the PCO filed their stipulation to continue the hearing (the "Stipulation"). The Court approved the Stipulation. On January 14, 2019, the Foundation timely filed its opposition to the Motion ("Opposition"). On January 22, 2019, the Debtor timely replied ("Reply").

As a threshold matter, the PCO asserts that HMS has (1) failed to implement corrective actions required under a 2017 Accreditation Report, and (2) is failing to provide adequate care delivery for hospice patients. The PCO recommends that the Court defer a ruling on the Motion until the California Department of Public Health (CDPH) concludes its review of the Debtor's operation and issues a Statement of Deficiencies. The Court notes that the PCO cannot provide certainty that such a statement will be issued. The PCO separately requests that the Court require the Debtor to provide information regarding staffing levels and ratios, and requests that the Board of Visiting Nurse Association of the Inland Counties should complete a thorough review of any such report.

The Foundation argues that HMS must be employed pursuant to 11 U.S.C. § 327, but if employed under § 327 the Motion does not meet requirements for employment under applicable law, and the Debtor has not established "exceptional circumstances" to justify nunc pro tunc relief as requested.

DISCUSSION

Employment pursuant to § 363 versus §327

First, as to the Foundation's arguments that HMS should be employed pursuant to § 327 in lieu of § 363, the Court has evaluated and agrees with the Debtor that the weight of authority supports the availability of § 363 as a vehicle for retention of management professionals and/or consultants. *In re Nine W. Holdings, Inc.*, 588 B.R. 678, 686 (Bankr. S.D.N.Y. 2018). Further, as indicated by the Debtor, such retentions have long been authorized by the courts of the Central District of California. (Mot. at 4:4-13). In this case, where the evidence indicates that has provided management services to the Debtor since 2016, the Court agrees with the analysis of the *Nine West Court*, *inter alia*, that "rehabilitating a debtor and preserving the value of the debtor's business—significant Code-related objectives—can be best accomplished here by permitting the Debtors to utilize their estate assets under section

**United States Bankruptcy Court
Central District of California
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2:00 PM

CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

363 of the Code to hire the advisory services firm and its personnel who played key management roles at the company prepetition, thus ensuring the continuity of such services." *Nine West* at 691.

Nunc Pro Tunc Employment

Nunc pro tunc employment is limited to "exceptional circumstances where an applicant can show both [1] a satisfactory explanation for the failure to receive prior judicial approval and [2] that he or she has benefited the bankruptcy estate in some significant manner" (collectively, these two factors is referred to as the "THC Factors"). *Okamoto v. THC Fin'l Corp. (In re THC)*, 837 F.2d 389, 392 (9th Cir. 1988). As to nunc pro tunc employment, the Foundation's evidentiary objections are well-taken. Specifically, the Debtor has provided a de minimis declaration attesting to the business justification for the retention of HMS. Moreover, the Court is concerned that there is a lack of clarity distinguishing the contours of the Agreement with HMS from the services being provided by Force 10. The Court is inclined to permit the Debtor an opportunity to provide supplemental evidence outlining the management structure of the Debtor assuming both entities are employed. This is particularly important given the potential costs of permitting the Debtor to enter into agreements with two separate management-type entities.

TENTATIVE RULING

Based on the foregoing, the Court is inclined to CONTINUE the hearing for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

CONT...

Visiting Nurse Association of the Inland Counties

Chapter 11

Jennifer Vicente
Ryan W Beall

Movant(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
David M Goodrich
Beth Gaschen
Beth Gaschen
Jennifer Vicente
Jennifer Vicente
Ryan W Beall
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#29.00 CONT Emergency Motion for Order Authorizing The Debtor To Keep Two Pre-Petition Bank Accounts Open For The Sole Purpose of Accepting Electronic Deposits
(FINAL HEARING)

From: 8/20/18, 9/25/18, 10/30/18

Also #27 - #28

EH__

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

Movant(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
David M Goodrich
Beth Gaschen
Beth Gaschen
Jennifer Vicente
Jennifer Vicente
Ryan W Beall
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#30.00 CONT Disclosure Statement for Chapter 11 Liquidating Plan Proposed by the Debtor

From: 12/18/18

Also #31 & #32

EH__

Docket 124

***** VACATED *** REASON: CONTINUED TO 3/5/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#31.00 CONT Application to Employ Shulman Hodges & Bastian LLP as General
Bankruptcy Counsel

From: 11/27/18, 12/18/18

Also #30 & #32

EH__

Docket 45

***** VACATED *** REASON: CONTINUED TO 3/5/19 AT 2:00 P.M.**

Tentative Ruling:

11/27/2018

DISCUSSION

"[I]t is clear that the bankruptcy court has broad discretion over the appointment of professionals." *In re Seeburg Prods. Corp.*, 215 B.R. 175, 178 (Bankr. N.D. Ill. 1997). A violation of the rules of professional responsibility can be sufficient reason to disqualify a proposed counsel from being employed in a case. *See, e.g., In re Universal Bldg. Prods.*, 486 B.R. 650, 661 (Bankr. D. Del. 2010) (collecting cases).

"An attorney retained by the trustee, or debtor in possession, who assists with the collection of the assets of the estate, must abide by the highest professional standards." *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 840 (Bankr. C.D. Cal. 1991) "Not honesty alone, but the punctilio of an honor the most sensitive, is the standard of behavior." *Meinhard v. Salmon*, 164 N.E. 545, 546 (N.Y. 1928).

"[A] debtor who proposes a sale of all of its assets . . . must fully disclose to the court

**United States Bankruptcy Court
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CONT... Technology Solutions & Services, Inc., a Californi

Chapter 11

and creditors the relationship between the buyer and seller, as well as the circumstances under which the negotiations have taken place, any marketing efforts, and the factual basis upon which the debtor determined that the price was reasonable." *In re Wilde Horse Enters., Inc.*, 136 B.R. at 842. *In re Wilde Horse Enters., Inc.*, continued on to state:

The Court finds from the evidence before it that Ms. Bernstein either (1) knew of the collusive and undisclosed relationships in this case and knowingly participated in misleading the Court and creditors; or (2) didn't know of the collusive and undisclosed relationships in this case, and is therefore wholly incompetent because she insisted on remaining ignorant of the facts and law applicable to her case notwithstanding the numerous indicia of questionable conduct along the way. Whether Ms. Bernstein's acts were wrongful, willfully incompetent or grossly negligent is not important to the determination here. Under either case, the Court concludes her fees must be denied in their entirety [sic], she should not be permitted to represent debtors in possession before any bankruptcy court, and her conduct in this case must be referred to the State Bar of California for disciplinary proceedings.

Id. at 847.

In the instant case, it appears Applicant failed to act with honesty and candor in relation to the sale of substantially all of the estate's assets. Specifically, notwithstanding Applicant's duty to the Court, Applicant failed to disclose a material side deal which was pertinent to the terms of the sale under review, and Applicant even stated at the hearing it was not Applicant's job to make such disclosure. Applicant's conduct in this case has fallen short of complying with the rules of professional conduct and has obstructed the Court's review of the primary matter in this case, the sale of substantially all of Debtor's assets. Given that such conduct is clearly adequate to disallow Applicant's fees in their entirety, the Court is inclined to find that authorizing the employment of Applicant would be a frivolous exercise.

TENTATIVE RULING

**United States Bankruptcy Court
Central District of California
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Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

CONT... Technology Solutions & Services, Inc., a Californi

Chapter 11

The Court is inclined to DISALLOW the application.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, January 29, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#32.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 11/6/18, 12/18/18

Also #30 & #31

EH__

Docket 5

*** VACATED *** REASON: CONTINUED TO 3/5/19 AT 2:00 P.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

11:00 AM

6:17-12858 Scott Leigh Baumann and Holly Lynn Baumann

Chapter 7

#1.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 52

***** VACATED *** REASON: CONTINUED TO 2/27/19 AT 11:00 A.M.**

Party Information

Debtor(s):

Scott Leigh Baumann

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Holly Lynn Baumann

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

John P Pringle (TR)

Represented By
Todd A Frealy
Carmela Pagay

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

11:00 AM

6:17-18300 Deborah Stevenson

Chapter 7

#2.00 Motion to Avoid Judicial Lien with County of San Bernardino

EH__

Docket 57

*** VACATED *** REASON: CONTINUED TO 2/27/19 AT 11:00 A.M.

Party Information

Debtor(s):

Deborah Stevenson

Represented By
Edward T Weber

Movant(s):

Deborah Stevenson

Represented By
Edward T Weber

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

11:00 AM

6:18-20096 Angel Maria Broome

Chapter 7

#3.00 Motion to vacate dismissal and reinstate chapter 7 case

EH__

Docket 15

***** VACATED *** REASON: ADVANCED HEARING TO 1/29/19 AT
11:00 A.M.**

Party Information

Debtor(s):

Angel Maria Broome Pro Se

Movant(s):

Angel Maria Broome Pro Se

Trustee(s):

Larry D Simons (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

11:00 AM

6:14-17350 Dean L. Springer, Sr. and Tami Jo Springer

Chapter 7

#4.00 Motion for Order Requiring Disgorgement of Funds from Hilder & Associates

EH__

Docket 192

***** VACATED *** REASON: CONTINUED TO 2/27/19 AT 11:00 A.M.**

Party Information

Debtor(s):

Dean L. Springer Sr.	Pro Se
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Joint Debtor(s):

Tami Jo Springer	Pro Se
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Movant(s):

Larry D Simons (TR)	Represented By Richard A Marshack Sarah Cate Hays D Edward Hays Laila Masud
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Trustee(s):

Larry D Simons (TR)	Represented By Richard A Marshack Sarah Cate Hays D Edward Hays Laila Masud
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:18-17177 Julie Lynn Salazar

Chapter 7

Adv#: 6:18-01231 Winegardner Masonry, Inc. v. Salazar

#5.00 Status Conference RE: [1] Adversary case 6:18-ap-01231. Complaint by Winegardner Masonry, Inc. against Julie Lynn Salazar. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(41 (Objection / revocation of discharge - 727(c),(d),(e)))

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/10/19 AT 11:00 A.M.**

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Defendant(s):

Julie Lynn Salazar

Pro Se

Plaintiff(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

**United States Bankruptcy Court
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Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:18-17177 Julie Lynn Salazar

Chapter 7

#6.00 CONT Motion by Chapter 7 Trustee for Order Approving Equity Buy Back Agreement

From: 12/5/18

Also #7 & #8

EH__

Docket 24

***** VACATED *** REASON: CONTINUED TO 4/10/19 AT 11:00 A.M.**

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:18-17177 Julie Lynn Salazar

Chapter 7

#7.00 Application to Employ BHHS Perrie Mundy Realty Group as Real Estate Broker / Agent

Also #6 & #8

EH__

Docket 27

*** VACATED *** REASON: CONTINUED TO 4/10/19 AT 11:00 A.M.

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:18-17177 Julie Lynn Salazar

Chapter 7

#8.00 CONT Motion for Objection to Claim of Exemptions by Debtor, Julie Lynn Salazar

From: 1/16/19

Also #6 & #7

EH__

Docket 30

***** VACATED *** REASON: CONTINUED TO 4/10/19 AT 11:00 A.M.**

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

**United States Bankruptcy Court
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:18-12027 Richard M. Thomas

Chapter 7

Adv#: 6:18-01156 Anderson, Chapter 7 Trustee v. Williams et al

#9.00 CONT Motion for Default Judgment Against Defendants Amy Williams and Richard M. Thomas, Jr

From: 11/7/18, 12/12/18

Also #10

EH__

Docket 13

***** VACATED *** REASON: CONTINUED TO 2/27/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

Defendant(s):

Amy Williams

Represented By
Anerio V Altman

Richard M Thomas Jr.

Pro Se

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

Movant(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

CONT... Richard M. Thomas

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:18-12027 Richard M. Thomas

Chapter 7

Adv#: 6:18-01156 Anderson, Chapter 7 Trustee v. Williams et al

#10.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01156. Complaint by Karl T. Anderson, Chapter 7 Trustee against Amy Williams, Richard M Thomas Jr.. (Charge To Estate) (\$350.00). Complaint to: (1) Avoid and Recover Fraudulent Transfer; (2) Obtain Declaratory Relief as to Ownership of Real Property; and (3) Authorize Sale of Property Owned in Part by Non-Debtor Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

From: 9/26/18, 11/7/18, 12/12/18

Also #9

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 2/27/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

Defendant(s):

Amy Williams

Represented By
Anerio V Altman

Richard M Thomas Jr.

Pro Se

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

CONT... Richard M. Thomas

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01100 Zamucen & Curren LLP v. Johnson

#11.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01100. Complaint by Zamucen & Curren LLP against Vance Zachary Johnson . (d),(e))

From: 7/31/18, 10/3/18, 1/9/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 2/27/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Zamucen & Curren LLP

Represented By
Patricia J Grace

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

**United States Bankruptcy Court
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Riverside
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01064 Gerges et al v. Bastorous et al

#12.00 CONT Status Conference Re: Adversary case 6:18-ap-01064. Complaint by Mona Gerges, Rafet Gerges, St. Mary Properties, LLC against Mark Bastorous, Bernadette Shenouda. 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

From: 5/9/18, 5/16/18, 7/11/18, 8/22/18, 10/31/18, 11/14/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 2/27/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

Mona Gerges

Represented By
Louis J Esbin

Rafat Gerges

Represented By
Louis J Esbin

**United States Bankruptcy Court
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2:00 PM

CONT... Mark Bastorous
St. Mary Properties, LLC

Represented By
Louis J Esbin

Chapter 7

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

United States Bankruptcy Court
Central District of California
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:17-19010 Sara Durham

Chapter 7

Adv#: 6:18-01020 SCE Federal Credit Union v. Durham

#13.00 Motion for Default Judgment

Also #14

EH__

Docket 39

*** VACATED *** REASON: CONTINUED TO 2/27/19 AT 2:00 P.M.

Party Information

Debtor(s):

Sara Durham

Represented By
Edgar P Lombera

Defendant(s):

Sara Durham

Pro Se

Movant(s):

SCE Federal Credit Union

Represented By
Bruce P. Needleman

Plaintiff(s):

SCE Federal Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:17-19010 Sara Durham

Chapter 7

Adv#: 6:18-01020 SCE Federal Credit Union v. Durham

#14.00 CONT Status Conference Re: Complaint by SCE Federal Credit Union against Sara Durham. (14),(14A) priority tax claims)), 62 - Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud

From: 3/21/18, 6/27/18, 8/22/18, 10/24/18

Also #13

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 2/27/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Sara Durham

Represented By
Edgar P Lombera

Defendant(s):

Sara Durham

Pro Se

Plaintiff(s):

SCE Federal Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:17-17749 Joshua Cord Richardson

Chapter 7

Adv#: 6:18-01146 Sonnenfeld v. Richardson

#15.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01146. Complaint by Cleo Sonnenfeld against Joshua Cord Richardson. (A)(4), and (A)(6); and to Deny Discharge Pursuant to 11 U.S.C. Sections 727(A)(3), and (A)(5) (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (62 (Dischargeability - 523(a)(2), 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)),(66 (Dischargeability - 523(a)(1),(14),(14A) priority tax claims)) (Masud, Laila)

From: 8/29/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 2/27/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Defendant(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Plaintiff(s):

Cleo Sonnenfeld

Represented By
D Edward Hays
Laila Masud

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:17-16417 Robert H Mills, III

Chapter 7

Adv#: 6:17-01225 Liquid Capital Exchange, Inc. v. Mills, III

#16.00 CONT Pre-Trial Conference RE: [1] Adversary case 6:17-ap-01225. Complaint by Liquid Capital Exchange, Inc. against Robert Harry Mills Jr.. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Langley, Christopher)

From: 10/31/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/24/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Robert H Mills III

Represented By
Catherine Christiansen

Defendant(s):

Robert H. Mills III

Represented By
Todd L Turoci

Plaintiff(s):

Liquid Capital Exchange, Inc.

Represented By
Christopher J Langley

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:17-10724 Bausman and Company Incorporated

Chapter 7

Adv#: 6:18-01180 Whitmore v. Sierra Forest Products, Inc. dba Atlas Lumber

#17.00 CONT Status Conference Re: Adversary Complaint by Robert S. Whitmore against Sierra Forest Products, Inc. dba Atlas Lumber. (Charge To Estate \$350.00). Nature of Suit: 12 - Recovery of money/property - 547 preference, 91 - Declaratory judgment

From: 11/14/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 2/27/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Bausman and Company Incorporated

Represented By
William A Smelko

Defendant(s):

Sierra Forest Products, Inc. dba Atlas

Pro Se

Plaintiff(s):

Robert S. Whitmore

Represented By
Caroline Djang

Trustee(s):

Robert Whitmore (TR)

Represented By
Best Best & Krieger
Caroline Djang

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, January 30, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01163 Revere Financial Corporation v. Burns

#18.00 CONT Motion for Protective Order

From: 12/14/18

EH__

Docket 117

*** VACATED *** REASON: CONTINUED TO 2/27/19 AT 2:00 P.M.

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Defendant(s):

Don Cameron Burns

Represented By
Don C Burns

Movant(s):

Don Cameron Burns

Represented By
Don C Burns
Don C Burns
Don C Burns
Don C Burns
Don C Burns
Don C Burns
Don C Burns
Don C Burns
Don C Burns
Don C Burns

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

**United States Bankruptcy Court
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Wednesday, January 30, 2019

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2:00 PM

CONT... Douglas Jay Roger

Chapter 7

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#19.00 Motion By Defendant Empire Partners, Inc To Compel Compliance With Rule 45 Subpoena Duces Tecum Served On Non-Party Timothy Sullivan, And For Sanctions

EH__

Docket 498

***** VACATED *** REASON: CONTINUED TO 3/13/19 AT 3:00 P.M.**

Party Information

Debtor(s):

Empire Land, LLC

Represented By
James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Movant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By

Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By

Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00105 Diamond v. Empire Partners, Inc. et al

Chapter 0

#20.00 Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **KPMG LLP**, and For Sanctions

Also #21

EH__

Docket 2

***** VACATED *** REASON: CONTINUED TO 3/13/19 AT 3:00 P.M.**

Party Information

Defendant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Larry R Day	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Neil Miller	Represented By Jonathan A Loeb Jeffrey Rosenfeld
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se
Paul Roman	Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners, Inc. et al

Chapter 0

Movant(s):

Empire Partners, Inc.

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Larry R Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Neil Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Plaintiff(s):

Richard K Diamond

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00105 Diamond v. Empire Partners, Inc. et al

Chapter 0

#21.00 Motion for Protective Order re Third Party Subpoena

Also #20

EH__

Docket 11

***** VACATED *** REASON: CONTINUED TO 3/13/19 AT 3:00 P.M.**

Party Information

Defendant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Larry R Day	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Neil Miller	Represented By Jonathan A Loeb Jeffrey Rosenfeld
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se
Paul Roman	Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners, Inc. et al

Chapter 0

Movant(s):

KPMG LLP

Represented By
Richard W Esterkin

Plaintiff(s):

Richard K Diamond

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00104 Diamond v. Empire Partners, Inc. et al

Chapter 0

#22.00 Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **William Haegele**, and For Sanctions

EH__

Docket 2

***** VACATED *** REASON: CONTINUED TO 3/13/19 AT 3:00 P.M.**

Party Information

Defendant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb
Larry R Day	Represented By Jonathan A Loeb
Neil Miller	Represented By Jonathan A Loeb
Paul Roman	Pro Se
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se

Movant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
-----------------------	--

Plaintiff(s):

Richard K Diamond	Represented By Peter M Bransten
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners, Inc. et al

Chapter 0

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al** Chapter 0
Misc#: 6:18-00103 Diamond v. Empire Partners, Inc. et al

#23.00 Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On
Non-Party **Analysis Group, Inc.**, and For Sanctions

EH__

Docket 2

*** VACATED *** REASON: CONTINUED TO 3/13/19 AT 3:00 P.M.

Party Information

Defendant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Larry R Day	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Neil Miller	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Paul Roman	Pro Se
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se

Movant(s):

Richard K Diamond	Represented By Peter M Bransten
James P Previti	Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners, Inc. et al

Chapter 0

Jonathan A Loeb
Jeffrey Rosenfeld

Larry R Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Neil Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Plaintiff(s):

Richard K Diamond

Represented By
Peter M Bransten

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners Inc et al**
Misc#: 6:18-00102 Diamond v. Empire Partners Inc et al

Chapter 0

#24.00 Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **Bruce Deal**, and For Sanctions

EH__

Docket 6

***** VACATED *** REASON: CONTINUED TO 3/13/19 AT 3:00 P.M.**

Party Information

Defendant(s):

Empire Partners Inc	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jeffrey Rosenfeld
Larry R Day	Represented By Jeffrey Rosenfeld
Neil Miller	Represented By Jeffrey Rosenfeld
Paul Roman	Pro Se
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se

Movant(s):

Empire Partners Inc	Represented By Jonathan A Loeb Jeffrey Rosenfeld
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Plaintiff(s):

Richard K Diamond	Represented By Peter M Bransten
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, January 30, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners Inc et al

Chapter 0

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:13-18779 Rigoberto Baez

Chapter 13

#1.00 Motion For Order Denying Discharge Or Dismissing Case

EH__

Docket 172

Tentative Ruling:

1/31/19

BACKGROUND

On May 17, 2013, Rigoberto Baez ("Debtor") filed a Chapter 13 voluntary petition. On June 25, 2013, Debtor's Chapter 13 plan was confirmed. Debtor's Chapter 13 plan was subsequently amended on two occasions.

On December 6, 2018, Trustee filed a notice of final cure mortgage payment. On December 27, 2018, Wells Fargo Bank N.A. filed a response, stating that Debtor was \$11,338.57 delinquent in post-confirmation payments.

On December 28, 2018, Trustee filed a motion to deny discharge or, in the alternative, dismiss the case. Because Trustee has only provided legal analysis support dismissal of the case, not citing any legal basis to deny a discharge in this situation, the Court will consider the motion as a motion to dismiss. On January 16, 2019, Debtor filed his opposition. The opposition asserts that Debtor disputes Wells Fargo's accounting, and that Debtor will work with Wells Fargo to resolve the situation.

DISCUSSION

**United States Bankruptcy Court
Central District of California
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11:00 AM

CONT... Rigoberto Baez

Chapter 13

As noted by Trustee, 11 U.S.C. § 1307(c)(6) states:

(c) Except as provided in subsection (f) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including ---

(6) material default by the debtor with respect to a term of a confirmed plan

Trustee asserts that direct payments to Wells Fargo are payments under the plan, and the default in this case is material. Debtor has not provided any contrary legal authority on either point. The Court agrees with Trustee that direct payments to a lender are still considered payments under the plan. *See, e.g., In Matter of Kessley*, 655 Fed. Appx. 242, 244 (5th Cir. 2016); *see also In re Evans*, 543 B.R. 213 (Bankr. E.D. Va. 2016) (collecting cases). The Court also agrees that the post-confirmation default of \$11,338.57 is material, assuming that that figure is accurate.

TENTATIVE RULING

Debtor to apprise the Court of the status of the post-confirmation delinquency and any efforts to resolve the situation with Wells Fargo. Absent resolution, the Court is inclined to GRANT the motion.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

CONT... Rigoberto Baez

Chapter 13

Debtor(s):

Rigoberto Baez

Represented By
Michael Smith
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:14-24888 Jesus Padilla Simental

Chapter 13

#2.00 CONT Motion to Vacate Order Dismissing Bankruptcy Case

From: 1/10/19

EH ____

Docket 72

Tentative Ruling:

1/10/19

BACKGROUND

On December 12, 2014, Jesus Simental ("Debtor") filed a Chapter 13 voluntary petition. On February 26, 2015, Debtor's Chapter 13 plan was confirmed.

On May 31, 2018, Trustee filed a motion to dismiss for failure to submit tax returns or refunds. Debtor did not file an opposition to the motion. After a continuance, no appearance was made on behalf of Debtor at the continued hearing on the motion to dismiss, and the case was dismissed on November 8, 2018.

On November 26, 2018, Debtor filed a motion to vacate the dismissal order on the grounds of mistake, inadvertence and/or excusable neglect. On November 27, 2018, Trustee filed comments indicating disapproval, although the comments could also be characterized as recommending conditional approval. On December 3, 2018, Debtor set the matter for hearing and, on December 4, 2018, Debtor filed a supplemental declaration.

**United States Bankruptcy Court
Central District of California
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11:00 AM

CONT... Jesus Padilla Simental

Chapter 13

DISCUSSION

Debtor relies on FED. R. CIV. P. Rule 60(b)(1), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, which allows for relief from an order based on "mistake, inadvertence, surprise, or excusable neglect."

The legal basis for Debtor's assertion that the dismissal order should be vacated is that Debtor's counsel inadvertently did not appear at the hearing due to an office error. It is well established, however, that "an attorney's ignorance and carelessness does not provide grounds for Rule 60(b) relief." *In re Mercado*, 144 B.R. 879, 886 (Bankr. C.D. Cal. 1992) (citing *Bershad v. McDonough*, 469 F.2d 1333, 1337 (7th Cir. 1972)). And the mere assertion that counsel did not fulfill its duties, but that such carelessness was inadvertent, is clearly inadequate to support Rule 60(b) relief. *See, e.g., In re ACME Motors, Inc.*, 125 B.R. 702, 703 (Bankr. D.R.I. 1991).

"Rule 60(b) relief is extraordinary." *Id.* Yet, in this Court, a request for relief from a Chapter 13 dismissal order has become ordinary. On occasion, the requests are legally sound. Here, however, the evidence provided simply indicates that Debtor's counsel did not attend the hearing due to an internal error.

The Supreme Court has stated that:

There is certainly no merit to the contention that dismissal of petitioner's claim because of his counsel's unexcused conduct imposes an unjust penalty on the client. Petitioner voluntarily chose this attorney as his representative in the action, and he cannot now avoid the consequences of the acts or omissions of this freely selected agent. Any other notion would be wholly inconsistent with our system of representative litigation, in which each party is deemed bound by the acts of his lawyer-agent.

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Central District of California
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CONT... Jesus Padilla Simental

Chapter 13

Link v. Wabash R. Co., 370 U.S. 626, 633-34 (1962). See also *Bakery Mach. & Fabrication, Inc. v. Traditional Baking, Inc.*, 570 F.3d 845, 848 (7th Cir. 2009) ("[T]he clients are principals, the attorney is an agent, and under the law of agency the principal is bound by his chosen agent's deeds. The rule is that *all* of the attorney's misconduct (except in the cases where the act is outside the scope of employment or in cases of excusable neglect) becomes the problem of the client. A lawyer who inexcusably neglects his client's obligations does not present exceptional circumstances."). "Although attorney carelessness can [in certain circumstances] constitute 'excusable neglect' under Rule 60(b)(1), attorney inattentiveness to litigation is not excusable, no matter what the resulting consequences the attorney's somnolent behavior may have on a litigant." *Easley v. Kirmsee*, 382 F.3d 693, 698 (7th Cir. 2004) (collecting cases).

TENTATIVE RULING

The Court is inclined to GRANT the motion conditioned on compliance with the Trustee's conditions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jesus Padilla Simental

Represented By
Bryn C Deb

Movant(s):

Jesus Padilla Simental

Represented By
Bryn C Deb

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:16-14169 Sally Michelle Greene

Chapter 13

#3.00 Motion RE: Objection to Claim Number 5 by Claimant Phillips Chiropractic, Inc..

EH__

Docket 44

Tentative Ruling:

1/31/2019

BACKGROUND:

On May 9, 2016, Sally Greene ("Debtor") filed a Chapter 13 voluntary petition. On June 30, 2016, Debtor's Chapter 13 plan was confirmed.

On October 19, 2017, Phillips Chiropractic, Inc. ("Creditor") filed a proof of claim for an unsecured claim in the amount of \$5,000 ("Claim 5"). On January 3, 2019, Debtor filed an objection to Claim 5. Debtor argues that the Claim 5 was late-filed and must be disallowed. The Court notes that the claims bar deadline in the instant case was September 13, 2016.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim,

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CONT... Sally Michelle Greene

Chapter 13

that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

Claim 5 was filed more than one year after the claims bar deadline and, as a result, is not timely filed. 11 U.S.C. § 502(b)(9) provides:

(b) Except as provide in subsections (c)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as

**United States Bankruptcy Court
Central District of California
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11:00 AM

CONT...

Sally Michelle Greene

Chapter 13

of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that –

(9) proof of such claim is not timely filed, except to the extent tardily filed as permitted under paragraph (1), (2), or (3) of section 726(a) of this title or under the Federal Rules of Bankruptcy Procedure, except that a claim of a governmental unit shall be timely filed if it is filed before 180 days after the date of the order for relief or such later time as the Federal Rules of Bankruptcy Procedure may provide, and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required.

Here, the claims deadline was September 21, 2016. None of the enumerated exceptions being applicable to the instant situation, Claim 5 was filed untimely and must be disallowed pursuant to § 502.

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 5 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Sally Michelle Greene

Represented By
Sunita N Sood

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

CONT... Sally Michelle Greene

Chapter 13

Movant(s):

Sally Michelle Greene

Represented By
Sunita N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:19-10273 Maisha Lenette Ghant-Elie

Chapter 13

#4.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 3974 Quartzite Ln. San Bernardino, CA 92407 and 2013 Hyundai Sonata with supporting declaration

MOVANT: MAISHA L GHANT-ELLIE

EH__

Docket 9

Tentative Ruling:

1/31/2019

The Court notes that the instant motion indicates that it is being heard on regular notice, yet the matter was set on shortened (16 days) notice. Regarding the merits of the motion, it does appear that Debtor has provided clear and convincing evidence of a change in financial circumstances sufficient to rebut the statutory presumption of bad faith.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Maisha Lenette Ghant-Elie

Represented By
John F Brady

Movant(s):

Maisha Lenette Ghant-Elie

Represented By
John F Brady
John F Brady
John F Brady

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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11:00 AM

CONT... Maisha Lenette Ghant-Elie

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19628 Reynaldo Perez and Gatziry Zeledon

Chapter 13

#5.00 Motion for Order Determining Value of Collateral

Also #5.1

EH__

Docket 26

Tentative Ruling:

1/31/2019

BACKGROUND

On November 13, 2018, Reynaldo Perez & Gatziry Zeledon ("Debtors") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2008 Lincoln Navigator (the "Property"). Wells Fargo Dealer Services ("Creditor") has a security interest in the Property. On December 27, 2018, Debtor filed a motion to determine the value of the property. Debtor requests that the Property be valued at \$8,950, leaving the balance of the claim, \$7,699, unsecured. On January 22, 2019, Creditor filed a proof of claim in the amount of \$15,384.63, identifying \$13,375 as secured by the Property.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

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CONT... Reynaldo Perez and Gatziry Zeledon

Chapter 13

Presently the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that retail value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Kelly Blue Book report indicating that the private party value of the Property is \$8,950. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

Tentative Ruling:

The Court is inclined to CONTINUE the matter for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Reynaldo Perez

Represented By

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Thursday, January 31, 2019

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11:00 AM

CONT... Reynaldo Perez and Gatziry Zeledon

Chapter 13

Paul Y Lee

Joint Debtor(s):

Gatziry Zeledon

Represented By
Paul Y Lee

Movant(s):

Reynaldo Perez

Represented By
Paul Y Lee

Gatziry Zeledon

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19628 Reynaldo Perez and Gatziry Zeledon

Chapter 13

#5.10 CONT Confirmation of Chapter 13 Plan

From: 1/17/19, 1/24/19

Also #5

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reynaldo Perez

Represented By
Paul Y Lee

Joint Debtor(s):

Gatziry Zeledon

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19233 Yair Salvador Carranza Contreras

Chapter 13

#6.00 CONT Confirmation of Chapter 13 Plan

From: 1/10/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yair Salvador Carranza Contreras

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-18622 Jackie May Zapata

Chapter 13

#7.00 CONT Confirmation of Chapter 13 Plan

From: 11/29/18

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jackie May Zapata

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19936 Kalake Monisoni Toutai

Chapter 13

#8.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/17/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kalake Monisoni Toutai

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19939 Eddie Rolison

Chapter 13

#9.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddie Rolison

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

11:00 AM

6:18-19950 Cary Michael Clark and Trisha Lynn Clark

Chapter 13

#10.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cary Michael Clark

Represented By
Dana Travis

Joint Debtor(s):

Trisha Lynn Clark

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19956 Herman A. Wendorff and Monica Wendorff

Chapter 13

#11.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Herman A. Wendorff

Represented By
Daniel King

Joint Debtor(s):

Monica Wendorff

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19959 Jose Luis Vallejo

Chapter 13

#12.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 12/17/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Luis Vallejo

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19960 Ignacio Diaz

Chapter 13

#13.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 12/17/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ignacio Diaz

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19965 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19969 Daniel Porche and Leta Lorraine Porche

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Porche

Represented By
Dana Travis

Joint Debtor(s):

Leta Lorraine Porche

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19970 Randy Radford

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/17/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Randy Radford

Represented By
Michael Avanesian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-19973 Rosalva Perez Camacho

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 12/17/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rosalva Perez Camacho

Represented By
Anthony P Cara

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20008 Catalina J Alvarez

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Catalina J Alvarez

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20034 Gloria L Watson

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gloria L Watson

Represented By
Leonard J Cravens

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20051 Antonio Navarro Gomez and Francisca Navarro

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Antonio Navarro Gomez

Represented By
James Geoffrey Beirne

Joint Debtor(s):

Francisca Navarro

Represented By
James Geoffrey Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20070 Alexander J Perfinowicz and Ingeborg Maria Pefinowicz

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alexander J Perfinowicz

Represented By
Manfred Schroer

Joint Debtor(s):

Ingeborg Maria Pefinowicz

Represented By
Manfred Schroer

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20105 Darrel Jay Rumsey and Fe Eruela Rumsey

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Darrel Jay Rumsey

Represented By
Norma Duenas

Joint Debtor(s):

Fe Eruela Rumsey

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20113 Lorena Zermeno

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lorena Zermeno

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20114 John Harred and Luzmaria Montes

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Harred

Represented By
Paul Y Lee

Joint Debtor(s):

Luzmaria Montes

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20153 Miguel Angel Lopez

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Angel Lopez

Represented By
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20164 Basel Ghandour

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Basel Ghandour

Represented By
Tom A Moore

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20165 Pablo Cornejo

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/17/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pablo Cornejo

Represented By
Ivan Trahan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20173 Lawrence Clayton Thompkins

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lawrence Clayton Thompkins

Represented By
William J Smyth
Stephen S Smyth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20176 Garry Kenneth Frazier

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Garry Kenneth Frazier

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20232 Diana Marie Perrone

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Diana Marie Perrone

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20236 Carlos Rizo and Desiree Santistevan

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlos Rizo

Represented By
Erika Luna

Joint Debtor(s):

Desiree Santistevan

Represented By
Erika Luna

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20238 Efrain Padron

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Efrain Padron

Represented By
Patricia A Mireles

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20245 Jennifer Lynn Miller

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Lynn Miller

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20246 Buckleigh Xavier Pruitt and Donna Lee Pruitt

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Buckleigh Xavier Pruitt

Represented By
Nicholas M Wajda

Joint Debtor(s):

Donna Lee Pruitt

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20264 Veronica Montes

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Veronica Montes

Represented By
Nathan Fransen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20274 Robert Townsend

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Townsend

Represented By
David A Akintimoye

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20292 Humberto Vergara

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Humberto Vergara

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20296 Daniel Lee Crump

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Lee Crump

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20298 Ronald P Cohen and Julia A Cohen

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ronald P Cohen

Represented By
James T Lillard

Joint Debtor(s):

Julia A Cohen

Represented By
James T Lillard

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-20305 Patti Sue Shapiro

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patti Sue Shapiro

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:00 AM

6:18-18415 Donna Denise Upton

Chapter 13

#42.00 CONT Confirmation of Chapter 13 Plan

From: 11/29/18

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Denise Upton

Represented By
Seema N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:14-20076 Delfina Ramos Hernandez

Chapter 13

#43.00 Trustee's Motion to Dismiss Case

EH__

Docket 88

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/23/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Delfina Ramos Hernandez

Represented By
Edward G Topolski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:14-22362 James Lange and Michelle Lange

Chapter 13

#44.00 Trustee's Motion to Dismiss Case

EH__

Docket 167

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Lange

Represented By
Michael Smith
Sundee M Teeple
Craig K Streed

Joint Debtor(s):

Michelle Lange

Represented By
Michael Smith
Sundee M Teeple
Craig K Streed

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:14-23150 Vivian Munson

Chapter 13

#45.00 CONT Trustee's Motion to Dismiss Case

From: 7/23/18, 8/23/18, 10/25/18

EH__

Docket 218

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vivian Munson

Represented By
Amanda G Billyard
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:16-12453 Michael Joseph Fodor

Chapter 13

#46.00 Trustee's Motion to Dismiss Case

EH__

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Joseph Fodor

Represented By
Michael D Franco

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:16-13030 Richard Hill Lindsay and Laura Lee Lindsay

Chapter 13

#47.00 Trustee's Motion to Dismiss Case

EH__

Docket 118

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/27/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Hill Lindsay

Represented By
Emilia N McAfee

Joint Debtor(s):

Laura Lee Lindsay

Represented By
Emilia N McAfee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:17-13239 Gerald Bauer

Chapter 13

#48.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gerald Bauer

Represented By
Daniel King

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:17-13290 Joseph Frank Garcia and Roberta Ann Garcia

Chapter 13

#49.00 CONT Trustee's Motion to Dismiss Case

From: 1/10/19

EH__

Docket 37

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Frank Garcia

Represented By
Dana Travis

Joint Debtor(s):

Roberta Ann Garcia

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:17-13583 William J Schaefer and Jennifer L. Schaefer

Chapter 13

#50.00 Trustee's Motion to Dismiss Case

EH__

Docket 51

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William J Schaefer

Represented By
Patricia M Ashcraft

Joint Debtor(s):

Jennifer L. Schaefer

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:17-13599 Maurice Frank Manceau

Chapter 13

#51.00 CONT Trustee's Motion to Dismiss Case

From: 1/10/19

EH__

Docket 92

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maurice Frank Manceau

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:17-14549 Denice Laree Grimes and Derrick Gregory Grimes

Chapter 13

#52.00 CONT Trustee's Motion to Dismiss Case

From: 11/8/18, 12/20/18

EH__

Docket 42

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denice Laree Grimes

Represented By
M. Wayne Tucker

Joint Debtor(s):

Derrick Gregory Grimes

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:17-14972 Jude Okwor

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jude Okwor

Represented By
Javier H Castillo

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:17-15660 Guillermina Perez

Chapter 13

#54.00 Trustee's Motion to Dismiss Case due to Infeasibility of plan
EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Guillermina Perez

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:17-15662 Jemill M Humphrey

Chapter 13

#55.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jemill M Humphrey

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:18-10637 Felipe Gonzalez Plasencia

Chapter 13

#56.00 CONT Trustee's Motion to Dismiss Case

From: 1/10/19

EH__

Docket 36

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/23/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Felipe Gonzalez Plasencia

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:18-11081 Stephen Daniel Payan

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Daniel Payan

Represented By
Paul J Kurtzhall

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:18-13793 Michael Moreno and Azucena Moreno

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH __

Docket 36

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/29/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Moreno

Represented By
Andrew Nguyen

Joint Debtor(s):

Azucena Moreno

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:18-14761 Reginald D. Caldwell

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reginald D. Caldwell

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:18-14775 Ann Marie Pearson

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH__

Docket 24

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/28/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ann Marie Pearson

Represented By
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:18-11476 Randy Saulsberry and Kimberly E May

Chapter 13

#61.00 Trustee's Motion to Dismiss Case re Delinquency

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Randy Saulsberry

Represented By
David L Nelson

Joint Debtor(s):

Kimberly E May

Represented By
David L Nelson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:17-12397 Robert Nelson

Chapter 13

#62.00 Trustee's Motion to Dismiss Case re Delinquency

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Nelson

Represented By
David L Nelson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:17-12118 Veronica A Mendoza

Chapter 13

#63.00 Trustee's Motion to Dismiss Case re Delinquency

EH__

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Veronica A Mendoza

Represented By
Stephen S Smyth
William J Smyth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:16-10066 Saul Lara Sanchez

Chapter 13

#64.00 Trustee's Motion to Dismiss Case

EH__

Docket 67

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Saul Lara Sanchez

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:13-18557 Michael Anthony Clay and Brenda Ann Clay

Chapter 13

#65.00 Trustee's Motion to Dismiss Case

EH__

Docket 285

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Anthony Clay

Represented By
Dana Travis

Joint Debtor(s):

Brenda Ann Clay

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, January 31, 2019

Hearing Room 303

11:01 AM

6:18-15026 Joe R Garcia

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joe R Garcia

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:19-10508 Albert Sandoval

Chapter 7

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: Real Property 225 S. I St, San Bernardino

MOVANT: I STREET INVESTMENTS, LLC

EH__

Docket 6

Tentative Ruling:

02/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under §§ 362(d)(1) and (d)(2). GRANT waiver of 4001(a)(3) stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Albert Sandoval

Represented By
Glenn Park

Movant(s):

I Street Investments LLC

Represented By
William E Windham

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:19-10484 Xavier C. Luna

Chapter 13

#2.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: XAVIER C. LUNA

EH__

Docket 9

Tentative Ruling:

02/05/2019

Service: Proper

Opposition: None

The Debtor has provided sufficient evidence that he has made efforts to correct the issues which resulted in the dismissal of his prior case. Specifically, the Debtor has provided evidence that the dismissal was, in large part, a consequence of ineffective assistance of counsel. The Debtor's retention of new counsel for the instant case and the additional evidence of feasibility are sufficient to warrant continuance of the stay.

The Court is inclined to GRANT the Motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Xavier C. Luna

Represented By
Christopher J Langley

Movant(s):

Xavier C. Luna

Represented By
Christopher J Langley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

CONT... Xavier C. Luna

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:19-10415 Lewis K. Chism and Latoya A. Chism

Chapter 13

#3.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: LEWIS K CHISM AND LATOYA A CHISM

EH__

Docket 12

Tentative Ruling:

02/05/2019
Service: Proper
Opposition: None

At the confirmation hearing in their prior case, the Debtors requested ten days to convert their case to a case under chapter 7. The Court ordered that the case be converted within ten days otherwise the case would be dismissed. On September 24, 2018, having failed to convert the case, the case was dismissed.

In his declaration, the Debtor Husband explains that the claims came in higher than anticipated and he was not able to propose a feasible plan. Subsequent to dismissal, the Debtor Husband settled a workman's compensation case and was awarded \$50,000. The Debtors have used the funds to cure the arrears owed to the mortgage lender. With the arrears on the secured claim eliminated, the Debtors assert they are now able to propose a feasible plan.

The Debtors have presented sufficient evidence to warrant continuance of the automatic stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Lewis K. Chism

Represented By
Christopher J Langley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

CONT... Lewis K. Chism and Latoya A. Chism

Chapter 13

Joint Debtor(s):

Latoya A. Chism

Represented By
Christopher J Langley

Movant(s):

Lewis K. Chism

Represented By
Christopher J Langley

Latoya A. Chism

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:19-10370 Jorge Avendano Sosa

Chapter 13

#4.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 15405 Bello Way Moreno Valley, CA 92555

MOVANT: JORGE AVENDANO SOSA

EH__

Docket 7

Tentative Ruling:

02/05/2019

Service: Proper

Opposition: None

The Debtor's declaration and schedules in the current and prior case indicate that the Debtor has found new employment, and that the Debtor's new position results in higher net disposable income than in the prior case. Based on the foregoing, the Debtor has met his burden to demonstrate cause for continuance of the stay by clear and convincing evidence and the Court is inclined to GRANT the Motion.

There is, however, separately a service issue. Debtor served Wells Fargo at the correct address for the institution but instead of serving it to the attention of an officer as required under FRBP 7004(h), the Debtor indicated that he was serving the document on CSC, the agent for service of process for Wells Fargo. CSC has its own separate institutional address.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jorge Avendano Sosa

Represented By
Jaime A Cuevas Jr.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

CONT... Jorge Avendano Sosa

Chapter 13

Movant(s):

Jorge Avendano Sosa

Represented By

Jaime A Cuevas Jr.

Jaime A Cuevas Jr.

Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:19-10067 Carolise Lynn Armstead

Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 3100 Van Buren Blvd., #927, Riverside, CA 92503

MOVANT: 3100 VAN BUREN BOULEVARD APARTMENTS INVESTORS LLC

EH__

Docket 14

Tentative Ruling:

02/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under §§ 362(d)(1) and (d)(2). GRANT waiver of 4001(a)(3) stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Carolise Lynn Armstead Pro Se

Movant(s):

3100 VAN BUREN BOULEVARD Represented By
Scott Andrews

Trustee(s):

Larry D Simons (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:18-20343 Willie Clay Johnson and Dianna Marie Johnson

Chapter 7

#6.00 Motion for relief from the automatic stay with supporting declarations
PERSONAL PROPERTY RE: 2016 GMC Terrain, VIN: 2GKFLVE35G6208270

MOVANT: ACAR LEASING LTD dba GM FINANCIAL LEASING

EH__

Docket 11

Tentative Ruling:

02/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under §§ 362(d)(1) and (d)(2). GRANT waiver of
4001(a)(3) stay. DENY request for APO as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing,
the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Willie Clay Johnson

Represented By
Edgar P Lombera

Joint Debtor(s):

Dianna Marie Johnson

Represented By
Edgar P Lombera

Movant(s):

ACAR Leasing LTD d/b/a GM

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

CONT... Willie Clay Johnson and Dianna Marie Johnson

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:18-15192 Everett T Cain

Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1110 West Menlo Avenue, Hemet, CA-92543

MOVANT: CITIBANK N.A.

EH__

Docket 34

Tentative Ruling:

02/05/2019

Service: Proper

Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
GRANT request under ¶3 of prayer for relief and DENY request for APO as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Everett T Cain

Represented By
April E Roberts

Movant(s):

Citibank, N.A.

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:18-14761 Reginald D. Caldwell

Chapter 13

#8.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 34524 Devlin Dr, Beaumont, CA 92223

MOVANT: MIDFIRST BANK

From: 12/4/18, 1/8/19

EH__

Docket 33

***** VACATED *** REASON: ORDER ENTERED 2/1/19**

Tentative Ruling:

12/4/2018
Service: Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
GRANT requests under ¶¶ 3 and 12.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Reginald D. Caldwell

Represented By
Patricia M Ashcraft

Movant(s):

MidFirst Bank

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:18-14725 Percylyn Agustin Basa

Chapter 13

#9.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 14623 Meadowsweet Dr Eastvale, CA 92880

MOVANT: NATIONSTAR MORTGAGE LLC dba MR COOPER

From: 1/8/19

EH__

Docket 56

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: Yes

Movant to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Percylyn Agustin Basa

Represented By
Benjamin R Heston

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Angie M Marth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:18-11701 Wayne Anthony King and Traci Ann Zweck

Chapter 13

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6580 Valinda Avenue, Rancho Cucamonga, CA 91737

MOVANT: DITECH FINANCIAL LLC

EH__

Docket 59

Tentative Ruling:

02/05/2019
Service: Proper
Opposition: Yes

The Debtors propose an APO to resolve the Motion. Parties to update the Court regarding the status of negotiations.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Wayne Anthony King

Represented By
Dana Travis

Joint Debtor(s):

Traci Ann Zweck

Represented By
Dana Travis

Movant(s):

Ditech Financial LLC

Represented By
Jamie D Hanawalt
Caren J Castle

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

CONT... Wayne Anthony King and Traci Ann Zweck

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:18-10850 Eugene Peter Roman, Jr. and Sylvia Roman

Chapter 13

#11.00 Motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15346 Bolero Dr, Fontana, CA 92337

MOVANT: PENNYMAC LOAN SERVICES, LLC

EH__

Docket 32

Tentative Ruling:

02/05/2019

Service: Proper

Opposition: None

GRANT relief from the stay under §§ 362(d)(1). GRANT waiver of 4001(a)(3) stay.
GRANT request under ¶3 of prayer for relief and DENY request for APO as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Eugene Peter Roman Jr.

Represented By
Todd L Turoci

Joint Debtor(s):

Sylvia Roman

Represented By
Todd L Turoci

Movant(s):

PennyMac Loan Services, LLC

Represented By
Robert P Zahradka

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

CONT... Eugene Peter Roman, Jr. and Sylvia Roman

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:17-20114 Frank Garcia and Susan Garcia

Chapter 13

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2805 Mirada Road, Highland, California 92346

MOVANT: PRIME LENDING

EH__

Docket 51

*** VACATED *** REASON: ORDER ENTERED 2/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Garcia

Represented By
Paul Y Lee

Joint Debtor(s):

Susan Garcia

Represented By
Paul Y Lee

Movant(s):

PrimeLending A PlainsCapital

Represented By
Diana Torres-Brito
Alexander G Meissner

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:17-15604 Mandy Catron

Chapter 13

#13.00 Motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2875 West June Place, San Bernardino, CA 92407

MOVANT: WELLS FARGO BANK NA

EH__

Docket 57

Tentative Ruling:

02/05/2019

Service: Proper

Opposition: None

GRANT relief from the stay under §§ 362(d)(1). GRANT waiver of 4001(a)(3) stay and GRANT requests for relief under ¶¶ 3 and 12 of the prayer for relief. DENY request for relief from the co-debtor stay for lack of cause shown and DENY request for APO as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Mandy Catron

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:17-14908 Joan Eleanor Demiany

Chapter 13

#14.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 1055 East Via Colusa, Palm Springs, CA 92262

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

From: 9/11/18, 10/30/18, 12/18/18

EH__

Docket 35

***** VACATED *** REASON: CONTINUED TO 3/26/19 AT 10:00 A.M.**

Tentative Ruling:

10/30/2018

The Movant submitted evidence that the Debtor is delinquent in the amount of \$30,303.59, having missed 10 postconfirmation payments. The parties stipulated to a continuance of the hearing from September 11, 2018 to this date. The primary basis of opposition appears to be regarding the status of a loan modification application. Parties to update the Court.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joan Eleanor Demiany

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:17-14228 Michelle Meredith

Chapter 7

#15.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 102 Tesori Drive, Palm Desert, California 92211

MOVANT: OCWEN LOAN SERVICING LLC

From: 11/6/18

EH__

Docket 128

Tentative Ruling:

11/6/2018

Service is Proper
Opposition: Yes

Movant's sole legal basis for its request for relief from the automatic stay is that Movant is not protected by an adequate equity cushion. As noted by Trustee in its opposition, however, the equity cushion in this case is above the range required by *Mellor* and related case law. Therefore, the Court is inclined to CONTINUE the hearing on the motion for Trustee to market and sell the property.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michelle Meredith

Pro Se

Movant(s):

Ocwen Loan Servicing LLC

Represented By
Sean C Ferry

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

CONT... Michelle Meredith

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Represented By
Noreen A Madoyan
Meghann A Triplett

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:17-13649 Fernando Fabrigas, Sr. and Estela F. Fabrigas

Chapter 7

#16.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 231 Arden Street, Hemet, CA 92543

MOVANT: FREEDOM MORTGAGE CORPORATION

From: 7/31/18, 10/30/18, 1/8/19

EH__

Docket 75

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Fernando Fabrigas Sr.

Represented By
R Creig Greaves
Kevin Tang

Joint Debtor(s):

Estela F. Fabrigas

Represented By
R Creig Greaves
Kevin Tang

Movant(s):

FREEDOM MORTGAGE

Represented By
Jason C Kolbe
Nancy L Lee

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Brandon J Iskander

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

CONT...

**Fernando Fabrigas, Sr. and Estela F. Fabrigas
Rika Kido**

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:16-18082 Joseph John Vargas and Lydia Vargas

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 21341 Shakespeare Court, Moreno, Valley, California 92557

MOVANT: U.S. BANK NATIONAL ASSOCIATION

EH__

Docket 104

Tentative Ruling:

02/05/2019

Service: Proper

Opposition: Yes

Parties to update Court regarding the status of APO negotiations, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joseph John Vargas

Represented By
Dana Travis

Joint Debtor(s):

Lydia Vargas

Represented By
Dana Travis

Movant(s):

U.S. Bank National Association

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:16-10840 Joanne Casillas

Chapter 13

#18.00 Motion for relief from the automatic stay with supporting declarations REAL
PROPERTY RE: 8076 Bluff View Ln, Corona CA 92880

MOVANT: US BANK NA

EH__

Docket 66

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/29/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joanne Casillas

Represented By
Paul Horn

Movant(s):

U.S. Bank N.A., as trustee, on behalf

Represented By
Daniel K Fujimoto
Sonia Plesset Edwards
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

6:15-13346 Chris Maddox and Christie Michelle Maddox

Chapter 13

#19.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13172 San Rafel Drive, Chino Hills, CA 91709

MOVANT: BAYVIEW LOAN SERVICING, LLC

CASE DISMISSED 2/5/19

EH__

Docket 81

Tentative Ruling:

02/05/2019
Service: Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay and GRANT request under ¶3 of prayer for relief.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Chris Maddox

Represented By
Sanaz S Bereliani

Joint Debtor(s):

Christie Michelle Maddox

Represented By
Sanaz S Bereliani

Movant(s):

BAYVIEW LOAN SERVICING,

Represented By

**United States Bankruptcy Court
Central District of California
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Tuesday, February 5, 2019

Hearing Room 303

10:00 AM

CONT...

Chris Maddox and Christie Michelle Maddox

Edward G Schloss

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Lexus RX350

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

Also #21

EH ____

Docket 198

Tentative Ruling:

02/05/2019

Service is Proper

Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.

DENY relief under § 362(d)(2) for lack of cause shown.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Toyota Motor Credit Corporation,

Represented By
Austin P Nagel

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, February 5, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 BMW X5 Utility 4D 35i 2WD

MOVANT: FINANCIAL SERVICES VEHICLE TRUST

Also #20

EH__

Docket 190

***** VACATED *** REASON: ORDER ENTERED 1/31/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Financial Services Vehicle Trust

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

2:00 PM

6:17-19936 Auto Strap Transport, LLC

Chapter 11

#22.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 1/9/18, 4/10/18, 7/10/18, 7/24/18, 8/14/18, 10/30/18, 12/4/18, 12/18/18, 1/8/19

EH__

Docket 48

***** VACATED *** REASON: CASE DISMISSED 1/31/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Auto Strap Transport, LLC

Represented By
Todd L Turoci

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

#23.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: Caterpillar Construction Equipment

MOVANT: CATERPILLAR FINANCIAL SERVICES CORPORATION

EH__

Docket 139

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/1/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

Movant(s):

Caterpillar Financial Services

Represented By
Mark D Poniatowski

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, February 5, 2019

Hearing Room 303

2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

Adv#: 6:18-01237 G Hurtado Construction, Inc. v. Catano et al

#24.00 Status Conference re Adversary case 6:18-ap-01237. Complaint by G Hurtado Construction, Inc. against Juan Catano, Faustino Magana, Donahoo & Associates, PC. (Charge To Estate - \$350.00). -CLAIM OBJECTIONS Nature of Suit: 14 - Recovery of money/property - other, 91- Declaratory judgment

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/5/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

Defendant(s):

Juan Catano

Pro Se

Faustino Magana

Pro Se

Donahoo & Associates, PC

Pro Se

Plaintiff(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

2:00 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#25.00 Debtor's Motion for Order Authorizing Entry Into Amendment to Subcontract Pursuant to 11 U.S.C. Section 363(b) OR (c), Approving Compromise of Disputes Pursuant to FRBP 9019 and Modifying the Automatic Stay Pursuant to 11 U.S.C. Section 362(d)(1)

EH__

Docket 166

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 5, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#26.00 CONT Motion to Dismiss Chapter 11 Case

From: 9/25/18, 10/1/18, 12/4/18, 12/18/18, 1/15/19

Also #27 & #28

EH__

Docket 37

Tentative Ruling:

9/25/2018

BACKGROUND

On July 23, 2018, Richard Garavito ("Debtor") filed a Chapter 11 voluntary petition. Debtor previously filed a Chapter 13 case on April 17, 2018, which was dismissed on July 19, 2018.

On August 29, 2018, the Taylor Family Trust of June 16, 2004 ("Creditor"), the primary creditor in the instant case, filed a motion to confirm that the automatic stay terminated pursuant to 11 U.S.C. § 362(c)(3)(A). On September 7, 2018, Debtor filed a motion to continue/impose the automatic stay. Because Debtor has not offered a cognizable legal argument as to why the automatic stay has not terminated, or why Debtor can obtain a continuation of the automatic stay after the statutory deadline, the Court has posted tentative rulings indicating that it intends to grant Creditor's motion and deny Debtor's motion.

On September 11, 2018, Debtor filed a motion to dismiss the case and an application

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CONT...

Richard Garavito

Chapter 11

shortening time. On September 13, 2018, the Court approved the application shortening time, and set a hearing for September 25, 2018.

DISCUSSION

11 U.S.C. § 1112(b)(1) states:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

11 U.S.C. § 1112(b)(4) provides a non-exclusive list of sixteen examples of cause – most of which are more appropriately considered when the moving party is an entity other than the debtor.

Here, Debtor’s motion is unclear, at best. The entire argument why the case should be dismissed is reproduced, verbatim, as follows:

In the present case, since the motion to impose and/or continue the stay was not timely filed, the stay will no longer be in effect with the pending motion to terminate the stay filed by secured creditor Taylor Family Trust.

The Debtor should not be penalized due to counsel’s inadvertent calendaring

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CONT...

Richard Garavito

Chapter 11

error of the 30 days rule of filing a motion to impose and/or continue the stay. However, an argument can be made that under the majority approach a motion to impose or continue the stay shall be filed as to the Debtor individually and not as to the property of the estate. Here, the Subject Property is property of the estate and the automatic stay should be in effect as to the Subject Property.

However, due to circumstances surrounding the possible termination of the stay, the Debtor requests dismissal of this case as there is no purpose if the stay is not in effect as to the Subject Property.

[Dkt. No. 37, pg. 5]. In summary, Debtor acknowledges that the stay has statutorily terminated and the deadline to continue the automatic stay has lapsed, but then argues that such stay termination is with regards to the Debtor only, not property of the estate. Despite the argument, the Debtor then asserts that due to "circumstances" the Debtor requests dismissal because there is "no purpose" if the stay has also terminated as to property of the estate.

There are multiple issues with the above line of argument. First, Debtor does not appear to have raised any coherent cause for dismissal – the only argument made in favor of dismissal, that the "Subject Property" is not protected by the automatic stay, (and thus this Chapter 11 case cannot be successful) is also explicitly rejected by Debtor. Second, § 1112(b) requires the Court to consider whether dismissal or conversion to Chapter 7 is in the best interests of creditors and the estate. Here, Debtor's schedules filed in the instant case indicate that all creditors would likely be paid in full if this case was converted to Chapter 7. Therefore, pursuant to the analysis required by § 1112(b), it is unclear why this case would be dismissed rather than converted to Chapter 7.

Finally, the Court acknowledges that, in a reply relating to its motion to confirm that the automatic stay has terminated, Creditor has requested that, if the case is dismissed, Debtor be restricted from re-filing by a bar. While raising this argument in a reply relating to a different motion is procedurally improper, the Court need not address the request at the current time given the issues above.

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CONT... Richard Garavito

Chapter 11

TENTATIVE RULING

Debtor and Creditor to argue: (1) whether there is cause for dismissal; (2) whether the automatic stay is in effect as to the Subject Property; and (3) whether dismissal or conversion to Chapter 7 would be in the best interests of creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
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Tuesday, February 5, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#27.00 CONT Motion (1) Authorizing sale of real property located at 5065 Brooks Street, Montclair, California, free and clear of liens, claims and interests, (2) Confirming sale to third party or the highest qualified bidder and approving overbid procedures; and (3) Determining that buyer is a good faith purchaser

From: 1/15/19

Also #26 & #28

EH__

Docket 81

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

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2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#28.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 8/21/18, 10/16/18, 12/4/18, 12/18/18, 1/15/19

Also #26 & #27

EH ____

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
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Tuesday, February 5, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#29.00 CONT Motion for approval of chapter 11 disclosure statement
(Holding Date)

From: 8/21/18, 10/23/18, 11/27/18

Also #30

EH__

Docket 78

Tentative Ruling:

8/21/18

I. PROCEDURAL BACKGROUND

On January 26, 2018, Markus Boyd ("Debtor") filed a Chapter 11 voluntary petition. On February 13, 2018, the Court entered an interim order approving use of cash collateral. On March 6, 2018, the Court entered orders (1) authorizing Debtor to provide adequate assurance of payment to utility service providers and; (2) approving a budget. On March 26, 2018, the Court authorized the employment of Nicholas Gebelt as counsel for Debtor. On April 26, 2018, the Court disallowed four claims of American Express (claim numbers 2 and 4-6).

On June 22, 2018, Debtor filed its disclosure statement and Chapter 11 plan. On August 7, 2018, UST filed a limited objection to Debtor's disclosure statement.

II. DISCLOSURE STATEMENT

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2:00 PM

CONT... Markus Anthony Boyd

Chapter 11

In addition to the disclosure statement, the following exhibits are included: (1) "Treatment of Claims/Interests" (Exhibit A); (2) "Executory Contracts & Unexpired Leases" (Exhibit B); (3) "Cash Flow Projections" (Exhibit C); (4) "Recent Financial History" (Exhibit D); (5) "Secured Claims" (Exhibit E); (6) "General Unsecured Claims, in Class 4A or 4B" (Exhibit F); "Liquidating Analysis" (Exhibit G); "Endnotes/Continuation Sheets" (which includes a supplement) (Exhibit H). Debtor has used the Court's optional disclosure statement form and worksheets, and, therefore, the format of the disclosure statement is adequate.

The Chapter 11 Plan's proposed effective date is October 21, 2018. There are four classes of claims and four listed categories of unclassified claims¹:

- 1) Class 1: Arrears secured by real property -- \$174,971.67 claim, Debtor proposes to pay over 60 months. Debtor's Exhibit A contains a row for arrears on the second and third deeds of trust, but does not identify any amount owing.
- 2) Class 2: Additional claims secured by real property – Debtor lists three different claims within this class. Debtor proposes to continue paying his mortgage (identified as \$772,733.45)², over 230 months and at 2% interest. Debtor proposes to cure his delinquency on HOA dues over 60 months. Debtor has included a row for, presumably, future HOA dues but no amount is listed. Nor is it clear that this class is truly unimpaired.
- 3) Class 3: Priority claims: Debtor's plan does not list any claims in class 3
- 4) Class 4: General Unsecured – \$45,151.20, Debtor proposes to pay over 60 months.
 - 1) Type 1: UST fees (\$650) – paid in full on effective date
 - 2) Type 2: Taxes (IRS) – approximately \$80k, paid over 51 months
 - 3) Type 3: Taxes (FTB) –\$5,651.86, paid over 51 months

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CONT...

Markus Anthony Boyd

Chapter 11

- 4) Type 4: Nicholas Gebelt's fees (\$30k)—paid in full on effective date
- 5) Type 5: Accountant's fees – none listed

III. LEGAL ANALYSIS

A. Adequate Information

A Chapter 11 disclosure statement is required to contain "adequate information" pursuant to 11 U.S.C. § 1125(b). Section 1125(f)(2) provides that: "the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28." The Central District of California has devised a disclosure statement template, Form 3017-1.CH11.DISCLSR.STMT, which Debtor generally adopted as to format.

As to the substance of a disclosure statement, 11 U.S.C. § 1125(a)(1) defines "adequate information" as:

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 typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan, but adequate information need not include such information about any other possible or proposed 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

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CONT... Markus Anthony Boyd

Chapter 11

The type of information required varies with the circumstances. *See, e.g., In re Jeppson*, 66 B.R. 269, 292 (Bankr. D. Utah 1986) (listing nineteen categories of information commonly required); *see also In re Malek*, 35 B.R. 443, 443-44 (Bankr. E.D. Mich. 1983) (listing minimum requirements).

While Debtor has utilized Court approved forms and has clearly delineated the treatment of the varying claims, the disclosure statement simply lacks the information necessary to evaluate Debtor's financial situation and determine the probability of the plan's success. First of all, as noted by UST, Debtor's practice appears to have been not to withhold taxes on earned income. Second of all, the limited financial information provided by Debtor indicates his income fluctuates drastically. The four months of "recent financial history" (Exhibit D) including in the disclosure statement note the following monthly receipts:

- 1) \$4,559 (February) (the corresponding monthly operating report lists receipts of \$51.89)
- 2) \$32,591 (March)
- 3) \$15,541 (April)
- 4) \$35,626 (May)

Additionally, a monthly operating report for June, filed after the disclosure statement, identifies receipts in the amount of \$1,801.11. The limited financial history provided supports UST's assertion that: "Debtor's tax liabilities are a significant risk factor given that the monthly operating reports reflect that the Debtor averages between \$18-\$19,000 in monthly net income – much less than the \$30,000 reported in the Disclosure Statement's cash flow projections." Indeed, using that \$18-\$19,000 figure, if one assumes that the receipts are before tax and that Debtor will ultimately be unsuccessful in the pending adversary proceeding, it would appear that the proposed plan may be infeasible. In any event, the financial information provided in the disclosure statement is grossly inadequate for an evaluation of the prospects of the

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CONT... Markus Anthony Boyd

Chapter 11

proposed plan. The information simply does not allow for a reasonably accurate estimation of Debtor's income and expenses moving forward.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#30.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 3/20/18, 8/21/18, 10/23/18, 11/27/18

Also #29

EH__

Docket 16

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 6, 2019

Hearing Room 303

10:00 AM

6:18-19805 Fernando Martinez Estrada

Chapter 7

**#1.00 Pro se Reaffirmation Agreement Between Debtor and Altura Credit Union re
2016 Nissan Pathfinder**

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Fernando Martinez Estrada

Represented By
Lauren M Foley

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Wednesday, February 6, 2019

Hearing Room 303

11:00 AM

6:10-11814 Scott Leon Bosco and Karen Lee Bosco

Chapter 7

#2.00 CONT Notice of Trustee's Final Report and Applications for Compensation

From: 12/5/18, 12/11/18

EH__

Docket 41

Tentative Ruling:

12/11/2018

No opposition has been filed.
Service was Proper.

11 U.S.C. § 326(a) states:

In a case under chapter 7 or 11, the court may allow reasonable compensation under section 330 of this title of the trustee for the trustee's services, payable after the trustee renders such services, not to exceed 25 percent on the first \$5,000 or less, 10 percent on any amount in excess of \$5,000 but not in excess of \$50,000, 5 percent on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3 percent of any moneys in excess of \$1,000,000, upon all *moneys disbursed or turned over in the case by the trustee* to parties in interest, excluding the debtor, but including holders of secured claims.

(emphasis added).

Trustee is basing his requested compensation in this case on \$185,000 in "receipts," but that amount includes \$72,908.11 paid to Aylstock, Witkin, Kreis & Overholtz, PLLC which does not appear properly categorized as a receipt because these moneys were not, at any time, held or administered by Trustee, let alone received by Trustee, or disbursed by Trustee. Specifically, paragraph 8 of the motion to approve settlement [Dkt. No. 2] indicates that the costs and expenses of certain status litigation were to be paid directly by the settlement fund trustee, and only the remaining funds would

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CONT... Scott Leon Bosco and Karen Lee Bosco

Chapter 7

actually be received by the Chapter 7 Trustee. To wit:

Subject to the terms of the settlement being satisfied, the balance of the remaining settlement proceeds, after the Settlement Fund Trustee pays and/or withholds the necessary expenses, fees, costs, holdbacks, and deductions from the Gross Settlement Amount, anticipated to be in the amount of \$97,897.75 (the "Remaining Proceeds") shall be disbursed from the Settlement Fund Trustee to the Trustee.

Not only are the requested fees simply incompatible with the plain language of the statute, which calculates fees based on moneys disbursed or turned over by the trustee, the fees cannot be reasonably justified on policy grounds. In this case, the state court counsel incurred significant legal fees litigating a state court matter while the instant bankruptcy was closed. The state court counsel's work on this matter was, in no matter whatsoever, related to the administration of the bankruptcy estate, and Trustee did not participate in, direct, or even have an awareness of the fees incurred. Case law notes that important distinction:

The reported decisions construing section 326(a) have recognized a distinction between funds that are constructively received and funds that are actually received. These cases stand for the proposition that a commission can only be calculated upon the funds actually received by the trustee. In this particular case, the trustee never received any settlement proceeds that were paid directly to the debtor's personal injury counsel in fees and expenses or to the worker's compensation carrier.

In re Guido, 237 B.R. 562, 564-65 (Bankr. E.D.N.Y. 1999) (citations omitted); *see also Kandel v. Alexander Leasing Corp.*, 107 B.R. 548 (N.D. Ohio 1988) (proceeds of settlement were not "money disbursed" where the trustee cannot point to any time at which the moneys actually passed through his hands); *In re New England Fish Co.*, 34 B.R. 899, 902 (Bankr. W.D. Wash. 1983) ("[I]n view of the majority of the cases under prior law and the plain and unambiguous wording of section 326(a), this Court concludes that the trustee's compensation must be based on actual monies disbursed

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CONT... Scott Leon Bosco and Karen Lee Bosco

Chapter 7

to parties in interest, and not on assets or settlements which can be construed as a constructive disbursement.").

In light of the foregoing, the Court is inclined to reduce the basis upon which Trustee's statutory fee is calculated, eliminating those amounts which were at no time administered, held, received, or disbursed by Trustee. The remaining cognizable disbursements appear to be a bank service fee of \$117.34, Trustee's expenses in the amount of \$778.22, and payments to creditors in the amount of \$4,027.61, for an aggregate amount of \$4,923.17. Therefore, the Court is inclined to approve Trustee's fees in the reduced amount of \$1,230.79. The Court has reviewed the itemized expenses filed by Trustee, and finding them reasonable, the Court is inclined to approve the expenses in the amount of \$778.22

APPEARANCES REQUIRED. If Applicant submits on the tentative, Applicant's appearance is waived.

Party Information

Debtor(s):

Scott Leon Bosco

Represented By
Richard H Travis
Dana Travis

Joint Debtor(s):

Karen Lee Bosco

Represented By
Richard H Travis
Dana Travis

Trustee(s):

Robert Whitmore (TR)

Represented By
Justin Witkin

**United States Bankruptcy Court
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Courtroom 303 Calendar**

Wednesday, February 6, 2019

Hearing Room 303

11:00 AM

6:14-15412 Laura Castillo

Chapter 7

#3.00 Motion to Reopen Chapter 7 Case

EH__

Docket 37

Tentative Ruling:

2/6/19

BACKGROUND

On April 25, 2014, Laura Castillo ("Debtor") filed a Chapter 7 voluntary petition. On August 4, 2014, Debtor received a discharge, and the case was closed the next day.

On February 17, 2015, Debtor filed a motion to reopen. The motion was granted, and the case was reopened on April 21, 2015. On June 19, 2015, Debtor filed a motion to avoid lien. On August 28, 2015, the motion was denied for failure to provide adequate evidence regarding the validity and amount of the first lien on the subject real property. On September 14, 2015, the case was closed again. On November 2, 2015, Debtor filed another motion to reopen case, although the document filed with the Court was actually just an attachment to a proof of service. The next day, Debtor filed an amended motion, but attempted to set the matter for hearing in the wrong courtroom, resulting in no hearing being set. On November 30, 2015, Debtor amended the motion again. Ultimately, on January 12, 2016, the case was reopened again. On April 4, 2016, Debtor filed another motion to avoid lien. On May 20, 2016, this second motion to avoid lien was denied for improper service. The Court also noted that on the merits, the motion could not be granted in its entirety. On June 22, 2016, the case was closed again.

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Hearing Room 303

11:00 AM

CONT... Laura Castillo

Chapter 7

On December 27, 2018, Debtor filed a third motion to reopen case.

DISCUSSION

11 U.S.C. § 350(b) states: "A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause." Debtor's motion indicates that she wishes to reopen the case to attempt to file another motion to avoid lien.

Motions to reopen bankruptcy cases "should be routinely granted." *In re Dodge*, 138 B.R. 602, 605 (Bankr. E.D. Cal. 1992). "While the Code does not define 'other cause' for purposes of reopening a case under section 350(b), the decision to reopen is discretionary with the court, which may consider numerous factors, including equitable concerns, and ought to emphasize substance over technical considerations." 3 COLLIER ON BANKRUPTCY ¶ 350.03[5] (16th ed. 2016). This Court routinely grants motions to reopen to allow debtors to file motions to avoid liens, as the avoidance of such lien could be characterized as affording relief to the debtor.

Nevertheless, the Court is concerned with the fact that repeated delays and errors have resulted in Debtor attempting to avoid the lien of Cach, LLC, over a period of three and a half years. While the Court is inclined to grant the instant motion to reopen, counsel is cautioned to carefully and competently review the subsequent motion to avoid lien.

The Court notes that the motion does not request authority to amend the schedules, and it is not clear if such amendment is necessary for the relief sought.

TENTATIVE RULING

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CONT... Laura Castillo

Chapter 7

The Court is inclined to GRANT the motion and REOPEN the case for a period of sixty days.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Laura Castillo

Represented By
Salvatore Bommarito

Movant(s):

Laura Castillo

Represented By
Salvatore Bommarito

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
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6:17-17749 Joshua Cord Richardson

Chapter 7

Adv#: 6:18-01035 Sonnenfeld v. Richardson et al

#4.00 CONT Status Conference re Notice of Removal RE: [1] Adversary case 6:18-ap-01035. Complaint by Cleo Sonnenfeld against Joshua C Richardson. Case No. RIC 1700456]; Attachments: # 1 Notice of Status Conference re Removal of Action Nature of Suit: 01 - Determination of removed claim or cause

From: 3/28/18, 6/13/18, 7/25/18, 10/24/18, 12/19/18, 12/20/18

EH__

Docket 1

*** VACATED *** REASON: JUDGMENT ENTERED 1/23/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Defendant(s):

Joshua C Richardson

Pro Se

Todd A. Frealy

Represented By
Anthony A Friedman

Plaintiff(s):

Cleo Sonnenfeld

Represented By
Laila Masud
D Edward Hays

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

**United States Bankruptcy Court
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6:18-17730 Sally Jeanne Way

Chapter 7

Adv#: 6:18-01238 Daff, Chapter 7 Trustee v. Alohrav Studios, Inc., a Delaware corporation

#5.00 Status Conference RE: [1] Adversary case 6:18-ap-01238. Complaint by Charles W. Daff, Chapter 7 Trustee against Alohrav Studios, Inc., a Delaware corporation. (Charge To Estate). Verified Complaint for: 1) Quiet Title; 2) Cancellation of Instrument; and 3) Declaratory Relief Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/13/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sally Jeanne Way

Represented By
Summer M Shaw

Defendant(s):

Alohrav Studios, Inc., a Delaware

Pro Se

Plaintiff(s):

Charles W. Daff, Chapter 7 Trustee

Represented By
Brandon J Iskander

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Brandon J Iskander

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6:18-12282 Frank Javier Valderrama

Chapter 7

Adv#: 6:18-01141 Balderas et al v. Valderrama

#6.00 Status Conference RE: [22] Amended Complaint Second by John F Bazan on behalf of Jose Carrillo against Jose Carrillo.

EH__

Docket 22

***** VACATED *** REASON: ORDER DISMISSING SECOND
AMENDED COMPLAINT FILED 1/31/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Defendant(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Plaintiff(s):

Elizabeth Balderas

Represented By
John F Bazan

Jose Carrillo

Represented By
John F Bazan

Trustee(s):

Steven M Speier (TR)

Pro Se

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6:18-15107 Jesus Davila Romero

Chapter 7

Adv#: 6:18-01203 Frealy v. Davila et al

#7.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01203. Complaint by Todd Frealy against Lorena Davila, Jesse L. Davila, Jesus Davila Romero. (Charge To Estate \$350.00). (Attachments: # 1 Adversary Coversheet) Nature of Suit: 91- Declaratory judgment, 11- Recovery of money/property - 542 turnover of property, 31- Approval of sale of property of estate and of a co-owner - 363(h)

From: 12/12/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus Davila Romero

Represented By
Neil R Hedtke

Defendant(s):

Lorena Davila

Pro Se

Jesse L. Davila

Pro Se

Jesus Davila Romero

Represented By
Neil R Hedtke

Plaintiff(s):

Todd Frealy

Represented By
Carmela Pagay

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CONT... Jesus Davila Romero

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Represented By
Carmela Pagay

**United States Bankruptcy Court
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6:13-30625 John Martin Mata

Chapter 7

Adv#: 6:18-01089 Mata et al v. National Collegiate Student Loan Trust 2006-1 et a

#8.00 Motion to Seal Document (RE: related document(s)33 Motion for Summary Judgment). Notice of Motion and Motion to File Confidential Documents Under Seal

EH__

Docket 36

***** VACATED *** REASON: ORDER ENTERED 1/16/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Martin Mata

Represented By
Michael E Clark

Defendant(s):

National Collegiate Student Loan

Represented By
Damian P Richard

NATIONAL COLLEGIATE

Represented By
Damian P Richard

National Collegiate Student Loan

Represented By
Damian P Richard

Joint Debtor(s):

Livier Mata

Represented By
Michael E Clark

Movant(s):

National Collegiate Student Loan

Represented By
Damian P Richard

NATIONAL COLLEGIATE

Represented By

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CONT...

John Martin Mata

Chapter 7

Damian P Richard

National Collegiate Student Loan

Represented By
Damian P Richard

Plaintiff(s):

John Martin Mata

Represented By
Michael E Clark
Austin C Smith

Livier Mata

Represented By
Michael E Clark
Austin C Smith

Trustee(s):

Helen R. Frazer (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, February 6, 2019

Hearing Room 303

2:00 PM

6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#9.00 CONT Motion RE: Objection to Claim Number 11 by Claimant Natasha Reynoso and Mark Reynoso

HOLDING DATE

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Movant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

**#10.00 CONT Motion to Dismiss Adversary Proceeding (Third Amended Complaint)
(Holding Date)**

From: 8/2/18, 10/24/18, 12/19/18

Also #11

EH__

Docket 97

Tentative Ruling:

2/6/2019

BACKGROUND

On September 12, 2016, Douglas and Anne Goodman ("Debtors" or "Defendants") filed their Chapter 13 voluntary petition.

On November 11, 2016, Mark and Natasha Reynoso ("Plaintiffs") filed a complaint seeking determination of the dischargeability of a debt pursuant to 11 U.S.C. § 523(a)(2)(A) (the "Complaint"). Specifically, Plaintiffs allege that in 2015, they purchased real property located at 1656 West Lisbon Street in Upland, CA (the "Property") from the Debtors, and that a sale was consummated on the alleged misrepresentations of the Debtors' agent, Theresa Mann, that the Property was 3,231 square feet while Plaintiffs assert that the Property is actually 2,713 square feet (or a difference of 518 square feet). Plaintiffs also assert that they were led to believe that a water leak in the upstairs bathroom had been repaired. Plaintiffs allege that the Debtors knew or should have known that their agent was making false and misleading representations to Plaintiffs.

On February 3, 2017, the Court entered an order granting Defendants first motion to dismiss the Complaint, with leave to amend. A First Amended Complaint (the "FAC") was filed on February 28, 2017. On April 19, 2017, the Plaintiffs filed a First Amended Complaint captioned "Corrected" which indicated it had been corrected for

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CONT... **Douglas Edward Goodman**

Chapter 13

typographical errors. (the "Corrected Complaint" or the "SAC"). The Court denied Defendants' second motion to dismiss at a hearing on May 4, 2017. On June 5, 2017, the Defendants filed their Answer to the FAC ("Answer").

On March 9, 2018, the Defendants moved to dismiss the SAC. The Court granted the motion to dismiss the SAC, with leave to amend. A third amended complaint was then filed on May 23, 2018 (the "TAC"). [Note: there is a dispute regarding whether the operative complaint is a second or third amended complaint due to the filing of the "corrected complaint" indicated above. For purposes of this hearing, the operative complaint is Docket No. 93, the TAC].

On June 25, 2018, Defendants filed a motion to dismiss the TAC. This motion was orally granted after a hearing on August 2, 2018, after Plaintiffs failed to file opposition to the motion, and neither party appeared at the hearing. On August 29, 2018, the Court's oral ruling was set aside based upon stipulation of the parties. On October 9, 2018, Defendants filed opposition to the instant motion to dismiss. This matter has been continued on multiple occasions to afford the parties the opportunity to settle the matter.

DISCUSSION

As a threshold matter, while noting that Defendants have filed an answer in this adversary proceeding, that answer was filed in response to a now dismissed complaint. There being no other responsive pleading related to the TAC, the Court construes the instant motion as a FED. R. CIV. P. Rule 12(b)(6) motion to dismiss.

FED. R. CIV. P. Rule 12(b)(6), made applicable in adversary proceedings through FED. R. BANKR. P. Rule 7012, a bankruptcy court may dismiss a complaint if it fails to "state a claim upon which relief can be granted." In reviewing a FED. R. CIV. P. Rule 12(b)(6) motion, the trial court must accept as true all facts alleged in the complaint and draw all reasonable inferences in favor of the plaintiff. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). The trial court need not, however, accept as true conclusory allegations in a complaint or legal characterizations cast in the form of factual allegations. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–56, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007); *Hartman v. Gilead Scis., Inc. (In re Gilead Scis. Sec. Litig.)*, 536 F.3d 1049, 1055 (9th Cir. 2008).

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CONT... Douglas Edward Goodman

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To avoid dismissal under FED. R. CIV. P. Rule 12(b)(6), a plaintiff must aver in the complaint "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, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting *Twombly*, 550 U.S. at 570, 127 S.Ct. 1955). It is axiomatic that a claim cannot be plausible when it has no legal basis. A dismissal under FED. R. CIV. P. Rule 12(b)(6) may be based either on the lack of a cognizable legal theory or on the absence of sufficient facts alleged under a cognizable legal theory. *Johnson v. Riverside Healthcare Sys.*, 534 F.3d 1116, 1121 (9th Cir.2008).

The crux of Defendants' argument for dismissal of the TAC is that Plaintiffs have not set forth the basis for a money judgment under state law. In the Court's tentative ruling on the motion to dismiss the FAC, the Court stated the following:

The Ninth Circuit has held that a bankruptcy court may enter a monetary judgment on a disputed state law fraud claim in the course of determining that the debt is nondischargeable. *Cowen v. Kennedy (In re Kennedy)*, 108 F.3d 1015 (9th Cir.1997). *Shawn Deitz v. Wayne Ford, Patricia Ford (In re Wayne Ford, Patricia Ford)*, 469 B.R. 11, 21 (9th Cir. BAP 2012), aff'd, 760 F.3d 1038 (9th Cir. 2014). Here, although the Complaint is not explicit regarding the state law causes of action at issue, it appears implicit in the allegations that the Plaintiffs seek a monetary judgment as to a fraud or misrepresentation claim. Nonetheless, Plaintiffs should not have to guess at the state law basis of the debt for a money judgment.

Here, the TAC has added bases for calculation of damages under state law but has still not set forth the state law basis for the monetary judgment. Thus, the Plaintiffs have still not addressed the concerns raised by the Court and Defendants that they do not have sufficient notice of the basis for a monetary judgment such that the Defendants can adequately defend themselves in the action.

Given the contents of the opposition to the motion to dismiss, and noting the discussion at previous hearings to dismiss, it appears there is significant confusion regarding the required contents of a complaint in this situation.

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CONT... **Douglas Edward Goodman**

Chapter 13

Importantly, the instant situation is unique. There is a parallel, outstanding claim objection which could serve as a forum to litigate the validity of the underlying debt. Instead of maintaining two parallel, and overlapping, courses of litigation, the claim objection proceeding has been converted to a "holding date" so that both issues, the validity of the underlying debt and, if established, the non-dischargeability of that debt, can be more efficiently litigated in a single proceeding. Because this adversary proceeding is functioning as more than just a proceeding to determine the non-dischargeability of a pre-determined debt, Plaintiffs need to articulate the state law basis for the debt with the precision and clarity that would be required in, for instance, a state court proceeding. This is even more critical because, at a previous hearing, state law affirmative defenses of limited applicability were raised, and the Court is unable to assess the validity of such defenses when it is unclear what Plaintiff has raised as a theory of debt.

For the reasons stated in the preceding paragraphs, the Court is inclined to GRANT the motion, with leave to amend. Plaintiffs are reminded that this instant adversary proceeding serves two functions: (1) to litigate the validity of the debt; and (2) to litigate the non-dischargeability of that debt, if established. The former is really the preliminary issue in this situation, and the court expects the former to be pled with sufficient detail to enable the Court and Defendants to clearly ascertain Plaintiff's theory of the debt.

TENTATIVE RULING

The Court is inclined to GRANT the motion, DISMISSING the second amended complaint [Dkt. No. 93] with leave to amend.

APPEARANCES REQUIRED.

Party Information

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CONT... Douglas Edward Goodman

Chapter 13

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Theresa Mann

Represented By
Andrew L Leff

Jose Pastora

Represented By
Andrew L Leff

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Movant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Pro Se

Douglas Edward Goodman

Pro Se

Anne Louise Goodman

Pro Se

Douglas Edward Goodman

Represented By
Edward T Weber

Douglas Edward Goodman

Pro Se

Anne Louise Goodman

Pro Se

Anne Louise Goodman

Represented By
Edward T Weber

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CONT... Douglas Edward Goodman

Chapter 13

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#11.00 CONT Status Conference RE: [13] Amended Complaint by Michael J Hemming on behalf of Mark & Natasha Reynoso against Anne Louise Goodman, Douglas Edward Goodman. (RE: related document(s)1 Adversary case 6:16-ap-01277. Complaint by Mark & Natasha Reynoso against Douglas Edward Goodman, Anne Louise Goodman. false pretenses, false representation, actual fraud) filed by Plaintiff Mark & Natasha Reynoso)
(Holding Date)

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18

Also #10

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Theresa Mann

Represented By
Andrew L Leff

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CONT... Douglas Edward Goodman

Chapter 13

Jose Pastora

Represented By
Andrew L Leff

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

2:00 PM

6:18-12440 Paul Pound

Chapter 7

Adv#: 6:18-01147 Lloyd v. Pound

#12.00 CONT Motion For Summary Judgment

From: 11/14/18, 12/5/18, 1/16/19

Also #13

EH__

Docket 6

Tentative Ruling:

2/6/2019

I. PROCEDURAL BACKGROUND

On March 26, 2018, Paul Pound ("Debtor") filed a Chapter 7 voluntary petition. On July 2, 2018, April Lloyd ("Plaintiff") filed a complaint against Debtor to determine dischargeability of debt pursuant to 11 U.S.C. § 523(a)(2)(a), (a)(4), and (a)(6). On July 9, 2018, Debtor obtained a discharge and, four days later, the case was closed.

On July 31, 2018, Debtor filed his answer. On October 3, 2018, Plaintiff filed a motion for summary judgment. After a stipulated continuance of the hearing, Debtor filed his opposition on October 31, 2018.

II. FACTUAL BACKGROUND

On November 13, 2016, Marcus Lloyd, Plaintiff's brother entered into a purchase agreement with Debtor on behalf of Juanita Lloyd ("Juanita"), Plaintiff's mother, which was intended to be structured, according to Plaintiff, to "retrieve the equity in Juanita's home and lower her mortgage payments." Instead, according to Plaintiff, the agreement "was constructed to deprive Juanita of her home without receiving value

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CONT...

Paul Pound

Chapter 7

from the Debtor." Plaintiff's account of the details of the purchase agreement, recited on page 12 of the motion for summary judgment, are as follows:

The Purchase Agreement stated that the purchase price was \$670,000. The purchase price comprised of 75% in financing, 20% in seller carry back, and a 5% cash down payment. After closing, the seller was to release the seller carry back, and receive equity in return, and the seller was to reimburse the buyer the 5% cash down payment, and receive equity in return. Once the seller carry back was released, and the down payment reimbursed, all equity was to belong to the seller. Furthermore, the Purchase Agreement required that rental payments, equal to the amount of the mortgage payment, be made each month. In addition, at the time of closing, the Debtor was entitled to 3% of the purchase price as a real estate fee. Per the Purchase Agreement, Juanita deposited monthly payments into to [sic] the Debtor's Bank of American account starting around December 2006. She continued to make these payments until May 2007, when the Debtor requested that Juanita submit payments to a new account with Washington Mutual.

[Dkt. No. 6, pg 12].

Ultimately, on November 16, 2009, Juanita filed a complaint against Debtor in state court, asserting causes of action for fraud, conversion, and breach of contract. On August 30, 2011, Debtor and Juanita entered into a stipulated judgment which provided that Debtor would make periodic payments to Juanita totaling \$60,000. In the event that Debtor failed to comply with the payment schedule, the state court would enter judgment for the remaining balance.¹

In January 2014, Debtor stopped adhering to the periodic payment schedule. On October 14, 2016, Plaintiff moved for entry of judgment in state court and, on December 20, 2016, the state court entered judgment in the amount of \$42,000.

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CONT...

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III. DISCUSSION

Plaintiff moves to have this debt deemed nondischargeable pursuant to three different provisions: (1) 11 U.S.C. § 523(a)(2)(A); (2) 11 U.S.C. § 523(a)(4); and (3) 11 U.S.C. § 523(a)(6).

11 U.S.C. § 523(a)(2)(A), (a)(4), and (a)(6) state:

- (a) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt –
 - (2) for money, property, services, or an extension, renewal, or refinancing of creditor, to the extent obtained by –
 - (A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition;
 - (4) for fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny;
 - (6) for willful and malicious injury by the debtor to another entity or to the property of another entity

The elements of a § 523(a)(2)(A) claim are well-established: (a) the debtor made representations; (b) which were known to be false; (c) the representations were made with the intention and purpose of deceiving the creditor; (d) the creditor relied on such representations; (e) the creditor sustained loss and damage as a proximate result of the representations. *See, e.g., In re Sabban*, 600 F.3d 1219, 1222 (9th Cir. 2010).

11 U.S.C. § 523(a)(4) contains three different exceptions to dischargeability: (1) fraud or defalcation while acting in a fiduciary capacity; (2) larceny; and (3) embezzlement. Regarding fraud or defalcation while acting in a fiduciary capacity, the elements are:

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(1) the existence of an express trust; (2) the debt was caused by fraud or defalcation; and (3) the debtor acted as a fiduciary to the creditor at the time the debt was created. *See, e.g., In re Niles*, 106 F.3d 1456, 1459 (9th Cir. 1997). "Larceny is the fraudulent and wrongful taking and carrying away of the property of another with intent to convert the property to the taker's use without the consent of the owner." 4 COLLIER'S ON BANKRUPTCY ¶ 523.10[2] (16th ed. 2009). Finally, embezzlement, contains three elements: "(1) property rightfully in the possession of a nonowner; (2) nonowner's appropriation of the property to a use other than which it was entrusted; and (3) circumstances indicating fraud." *In re Littleton*, 942 F.2d 551, 555 (9th Cir. 1991).

To prevail on a claim under § 523(a)(6), a creditor must demonstrate three elements: (1) willful conduct; (2) malice; and (3) causation. *See In re Butcher*, 200 B.R. 675, 680 (Bankr. C.D. Cal. 1996) (*quoting In re Apte*, 180 B.R. 223, 230 (B.A.P. 9th Cir. 1995)). A willful injury is a "deliberate or intentional *injury*, not merely a deliberate or intentional *act* that leads to injury." *Kawaauhau v. Geiger*, 523 U.S. 57, 61 (1998). "A malicious injury involves (1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse." *In re Barboza*, 545 F.3d 702, 706 (9th Cir. 2008) (*quoting In re Jercich*, 238 F.3d 1202, 1209 (9th Cir. 2001)).

Summary judgment should be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *See* FED. R. CIV. P. 56(c) (incorporated into bankruptcy proceedings by FED. R. BANKR. P. 7056). This required the moving party to "affirmatively demonstrate that no reasonable trier of fact could find other than for the moving party." *Soremkun v. Thrifty Payless, Inc.*, 509 F.3d 978, 984 (9th Cir. 2007).

The moving party has the burden of establishing the absence of a genuine issue of material fact. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). If the moving party shows the absence of a genuine issue of material fact, the nonmoving party must go beyond the pleadings and identify facts that show a genuine issue for trial. *See id.* at 324. The court must view the evidence in the light most favorable to the nonmoving party. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). All reasonable doubt as to the existence of a genuine issue of fact should be resolved against the moving party. *See id.*

If the moving party meets its initial burden, the non-moving party must set forth, by

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affidavit or as otherwise provided in Rule 56, specific facts showing that there is a genuine issue for trial. *See id.* The non-moving party, however, "must do more than simply show that there is some metaphysical doubt as to the material fact...." *Matsushita Electrical Industry Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-587 (1986).

A fact is material if it "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.*

A. Issue Preclusion on Plaintiff's Claim under 11 U.S.C. § 523(a)(6)

Issue preclusion applies in nondischargeability proceedings to bar the relitigation of factual issues that were determined in a prior state court action. *See, e.g., Grogan v. Garner*, 498 U.S. 279, 284-85, n.11 (1991). To determine the issue-preclusive effect of a California state court's judgment, California preclusion law must be applied. *See* 28 U.S.C. § 1738; *Marrese v. Am. Acad. of Orthopaedic Surgeons*, 470 U.S. 373, 380 (1985); *Gayden v. Nourbakhsh (In re Nourbakhsh)*, 67 F.3d 798, 800 (9th Cir. 1995). Under California law, the party asserting issue preclusion has the burden of establishing the following "threshold" requirements:

- (1) the issue sought to be precluded must be identical to that decided in a former proceeding;
- (2) the issue must have been actually litigated in the former proceeding;
- (3) it must have been necessarily decided in the former proceeding;
- (4) the decision in the former proceeding must be final and on the merits; and,
- (5) the party against whom preclusion is sought must be the same as, or in privity with, the party to the former proceeding.

Harmon v. Kobrin (In re Harmon), 250 F.3d 1240, 1245 (9th Cir.2001).

Additionally, the application of issue preclusion requires a "mandatory 'additional'

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inquiry into whether imposition of issue preclusion would be fair and consistent with sound public policy." *In re Khaligh*, 338 B.R. 817, 824–25 (9th Cir. B.A.P. 2006). As stated by the California Supreme Court

We have repeatedly looked to the public policies underlying the doctrine before concluding that collateral estoppel should be applied in a particular setting.... Accordingly, the public policies underlying collateral estoppel—preservation of the integrity of the judicial system, promotion of judicial economy, and protection of litigants from harassment by vexatious litigation—strongly influence whether its application in a particular circumstance would be fair to the parties and constitutes sound judicial policy.

Lucido v. Super. Ct., 51 Cal. 3d 335, 342–43 (Cal. 1990) (internal citations omitted).

As noted by Plaintiff, it is true that, in some situations, a stipulated judgment can form the basis for collateral estoppel. "The parties need only 'manifest an intent to be collaterally bound by' the terms of the stipulated judgment." *In re Boyce*, 2016 WL 6247612 at *3 (B.A.P. 9th Cir. 2016) (quoting *Cal. State Auto. Ass'n Inter-Ins. Bureau v. Super. Ct.*, 50 Cal. 3d 658, 664 (Cal. 1990)).

Here, Debtor has filed a declaration which states that "[t]he judgment was never intended to be dispositive of the facts of the case." [Dkt. No. 17, ¶ 11]. This is sufficient to create a genuine issue of material fact and defeat Plaintiff's argument as to issue preclusion at the summary judgment stage. *See In re Jun Ho Yang*, 698 Fed. Appx. 374 (9th Cir. 2017) ("Here, Jun Ho Yang submitted a declaration that he did not intend the stipulated facts in the Settlement Agreement and Stipulation for Entry of Judgment in the prior state court action to have a preclusive effect in future proceedings. Such a declaration (even if self-serving) creates a genuine issue of material fact as to the parties' intent.")

B. Absence of a Genuine Issue of Material Fact

Plaintiff's alternative argument is that summary judgment is warranted because uncontroverted facts establish that the debt is non-dischargeable. The Court disagrees with this argument.

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Regarding § 523(a)(2)(A), Debtor denies, *inter alia*, that he had the intent to deceive Plaintiff, and supports such denial with factual assertions establishing that possibility. "The intent to deceive is a factual question and largely depends upon the credibility of witnesses and the weight to be given to their testimony." *In re Sutton*, 2015 WL 7776658 at *6 (B.A.P. 9th Cir. 2015). In this case, "where different ultimate inferences may be drawn from the parties' differing characterization of the facts, summary judgment is inappropriate." *In re Allen*, 2018 WL 909876 at *3 (Bankr. C.D. Cal 2018) (citing *Sankovich v. Ins. Co of N. Am.*, 638 F.2d 136, 140 (9th Cir. 1981); *see also In re Lucas*, 386 B.R. 332 (Bankr. D.N.M. 2008) ("Rarely is it appropriate to grant summary judgment on a claim for nondischargeability based on 11 U.S.C. § 523(a)(2)(A) because intent to defraud often depends on the credibility of witnesses."). Here, Debtor asserts that it was Plaintiff that first breached the purchase agreement, and that, upon such breach, Debtor continued to act in accordance with the purchase agreement for several months after the breach. The Court concludes that Debtor has established, at the least, a genuine issue of material fact with regard to whether Debtor had an intent to deceive Plaintiff.

Regarding § 523(a)(4), Plaintiff argues that the payments her mother made pursuant to the purchase agreement were ultimately embezzled by Debtor. In support of such argument, Plaintiff relies upon extrinsic evidence about the parties' intent when entering into the purchase agreement. Debtor has presented a different account of the parties' intent regarding the purchase agreement which, if true, would not allow for Debtor's actions to be characterized as embezzlement. Therefore, the Court concludes that Debtor has entitled a genuine issue of material fact with regard to Plaintiff's claim pursuant to § 523(a)(4).

Regarding § 523(a)(6), the Court concludes that Debtor has established a genuine issue of material fact for the same reason as noted in the two preceding paragraphs – namely that Debtor has asserted that it was Plaintiff's mother who first breached the purchase agreement, and that Debtor made a good-faith effort to comply with the terms of the purchase agreement for several months after the original breach.

TENTATIVE RULING

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The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Paul Pound

Represented By
Todd L Turoci

Defendant(s):

Paul M Pound

Represented By
Todd L Turoci

Movant(s):

April Lloyd

Represented By
Chane Buck

Plaintiff(s):

April Lloyd

Represented By
Chane Buck

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:18-12440 Paul Pound

Chapter 7

Adv#: 6:18-01147 Lloyd v. Pound

#13.00 CONT Status Conference RE: Complaint by April Lloyd against Paul M Pound. 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

From: 9/5/18, 11/14/18, 12/5/18, 1/16/19

Also #12

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Pound

Represented By
Todd L Turoci

Defendant(s):

Paul M Pound

Represented By
Todd L Turoci

Plaintiff(s):

April Lloyd

Represented By
Chane Buck

Trustee(s):

Karl T Anderson (TR)

Pro Se

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11:00 AM

6:18-20222 Moises Cortez and Rosalia Cortez

Chapter 7

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1661 W Via Bello Drive Rialto, California 92377

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

From: 1/15/19

EH__

Docket 13

Tentative Ruling:

02/07/2019

The hearing on the Motion was continued to this date because the real property declaration previously filed was illegible. Movant has now corrected the issue. Based on the evidence provided, the Court is inclined to: GRANT relief from the stay under §§ 362(d)(1) and (d)(2). GRANT waiver of 4001(a)(3) stay. GRANT Movant's request for authority to offer loan workout options. DENIED as to § 362(d)(4) for lack of cause shown.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

01/15/2019

The copy of the Movant's motion for relief from stay as filed on the Court's docket and also as reflected in the courtesy copy provided to the Court is illegible as to the Real Property Declaration. For this reason, the Court is inclined to CONTINUE the hearing to February 7, 2019 at 11:00 a.m. The Debtor must file and serve an amended notice of hearing and amended Motion with a clear and legible copy of the Real

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CONT... **Moises Cortez and Rosalia Cortez**

Chapter 7

Property Declaration attached, on or before January 17, 2019.

APPEARANCES WAIVED.

Party Information

Debtor(s):

Moises Cortez

Represented By
Neil R Hedtke

Joint Debtor(s):

Rosalia Cortez

Represented By
Neil R Hedtke

Movant(s):

Deutsche Bank National Trust

Represented By
Alexander G Meissner

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:18-20272 John Ryan

Chapter 13

#2.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/21/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Ryan

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:18-20308 Joseph Liebgott, IV and Robby Jean Harrison

Chapter 13

#3.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Liebgott IV

Represented By
John F Brady

Joint Debtor(s):

Robby Jean Harrison

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:18-20215 Frank Prouty

Chapter 13

#4.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/28/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Prouty

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-20213 Gary Bryant

Chapter 13

#5.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 12/28/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gary Bryant

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-20208 Rubin Esquivel

Chapter 13

#6.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 12/28/18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rubin Esquivel

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-20200 Denise Cherie Darden

Chapter 13

#7.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denise Cherie Darden

Represented By
Julie Philippi

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#8.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:18-19956 Herman A. Wendorff and Monica Wendorff

Chapter 13

#9.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Herman A. Wendorff

Represented By
Daniel King

Joint Debtor(s):

Monica Wendorff

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-19549 Mary Joyce Rudolph

Chapter 13

#10.00 CONT Confirmation of Chapter 13 Plan

From: 1/10/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mary Joyce Rudolph

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#11.00 CONT Motion Re: Objection to Claim Number 3 by Claimant IRS

From: 1/10/19

Also #12

EH__

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Movant(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#12.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18, 1/10/19

Also #11

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:17-17189 Earma Denise Young Washington and Marvin Ray

Chapter 13

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

Also #14

EH__

Docket 57

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Earma Denise Young Washington	Represented By Brad Weil
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Joint Debtor(s):

Marvin Ray Washington	Represented By Brad Weil
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Movant(s):

Earma Denise Young Washington	Represented By Brad Weil
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Marvin Ray Washington	Represented By Brad Weil
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Trustee(s):

Rod Danielson (TR)	Pro Se
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6:17-17189 Earma Denise Young Washington and Marvin Ray

Chapter 13

#14.00 CONT Trustee's Motion to Dismiss Case

From: 1/10/19

Also #13

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Earma Denise Young Washington

Represented By
Brad Weil

Joint Debtor(s):

Marvin Ray Washington

Represented By
Brad Weil

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-17859 Juan Aguilera

Chapter 13

#15.00 Motion to vacate dismissal

EH__

Docket 88

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Aguilera

Represented By
A Mina Tran

Movant(s):

Juan Aguilera

Represented By
A Mina Tran

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:14-24888 Jesus Padilla Simental

Chapter 13

#16.00 CONT Motion to Vacate Order Dismissing Bankruptcy Case

From: 1/10/19, 1/31/19

EH ____

Docket 72

Tentative Ruling:

1/10/19

BACKGROUND

On December 12, 2014, Jesus Simental ("Debtor") filed a Chapter 13 voluntary petition. On February 26, 2015, Debtor's Chapter 13 plan was confirmed.

On May 31, 2018, Trustee filed a motion to dismiss for failure to submit tax returns or refunds. Debtor did not file an opposition to the motion. After a continuance, no appearance was made on behalf of Debtor at the continued hearing on the motion to dismiss, and the case was dismissed on November 8, 2018.

On November 26, 2018, Debtor filed a motion to vacate the dismissal order on the grounds of mistake, inadvertence and/or excusable neglect. On November 27, 2018, Trustee filed comments indicating disapproval, although the comments could also be characterized as recommending conditional approval. On December 3, 2018, Debtor set the matter for hearing and, on December 4, 2018, Debtor filed a supplemental declaration.

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CONT... Jesus Padilla Simental

Chapter 13

DISCUSSION

Debtor relies on FED. R. CIV. P. Rule 60(b)(1), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, which allows for relief from an order based on "mistake, inadvertence, surprise, or excusable neglect."

The legal basis for Debtor's assertion that the dismissal order should be vacated is that Debtor's counsel inadvertently did not appear at the hearing due to an office error. It is well established, however, that "an attorney's ignorance and carelessness does not provide grounds for Rule 60(b) relief." *In re Mercado*, 144 B.R. 879, 886 (Bankr. C.D. Cal. 1992) (citing *Bershad v. McDonough*, 469 F.2d 1333, 1337 (7th Cir. 1972)). And the mere assertion that counsel did not fulfill its duties, but that such carelessness was inadvertent, is clearly inadequate to support Rule 60(b) relief. *See, e.g., In re ACME Motors, Inc.*, 125 B.R. 702, 703 (Bankr. D.R.I. 1991).

"Rule 60(b) relief is extraordinary." *Id.* Yet, in this Court, a request for relief from a Chapter 13 dismissal order has become ordinary. On occasion, the requests are legally sound. Here, however, the evidence provided simply indicates that Debtor's counsel did not attend the hearing due to an internal error.

The Supreme Court has stated that:

There is certainly no merit to the contention that dismissal of petitioner's claim because of his counsel's unexcused conduct imposes an unjust penalty on the client. Petitioner voluntarily chose this attorney as his representative in the action, and he cannot now avoid the consequences of the acts or omissions of this freely selected agent. Any other notion would be wholly inconsistent with our system of representative litigation, in which each party is deemed bound by the acts of his lawyer-agent.

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CONT... Jesus Padilla Simental

Chapter 13

Link v. Wabash R. Co., 370 U.S. 626, 633-34 (1962). See also *Bakery Mach. & Fabrication, Inc. v. Traditional Baking, Inc.*, 570 F.3d 845, 848 (7th Cir. 2009) ("[T]he clients are principals, the attorney is an agent, and under the law of agency the principal is bound by his chosen agent's deeds. The rule is that *all* of the attorney's misconduct (except in the cases where the act is outside the scope of employment or in cases of excusable neglect) becomes the problem of the client. A lawyer who inexcusably neglects his client's obligations does not present exceptional circumstances."). "Although attorney carelessness can [in certain circumstances] constitute 'excusable neglect' under Rule 60(b)(1), attorney inattentiveness to litigation is not excusable, no matter what the resulting consequences the attorney's somnolent behavior may have on a litigant." *Easley v. Kirmsee*, 382 F.3d 693, 698 (7th Cir. 2004) (collecting cases).

TENTATIVE RULING

The Court is inclined to GRANT the motion conditioned on compliance with the Trustee's conditions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jesus Padilla Simental

Represented By
Bryn C Deb

Movant(s):

Jesus Padilla Simental

Represented By
Bryn C Deb

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:15-21418 James Lloyd Walker

Chapter 7

#17.00 Order To Show Cause Why The Debtor Should Not Be Held In Contempt Of
The Court's Turnover Order

EH__

Docket 138

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth

Trustee(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

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6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#18.00 Motion for Reconsideration; (2) Clarification on Dismissal as to what party; (3) Order to Show Cause as to why the Adversary Proceeding should not be Dismissed

Also #19

EH__

Docket 147

Tentative Ruling:

02/07/2019

BACKGROUND

On July 28, 2016, the Luevina Henry ("Debtor") filed her petition for chapter 13 relief (the "Main Case"). Rod Danielson was the duly appointed chapter 13 trustee ("Trustee"). On June 18, 2018, the Trustee filed a motion to dismiss the Debtor's case (the "MTD"). The Trustee asserted failure to submit 2017 federal and state tax returns as grounds for dismissal. A hearing on the MTD was held on July 23, 2018, following which the case was dismissed. An order dismissing the case was entered on July 25, 2018 (the "Dismissal Order"). On August 6, 2018, Debtor filed a Motion to Vacate the Dismissal Order, which was ultimately denied on September 14, 2018. On September 17, 2018, the Debtor filed a second Motion to Vacate the Dismissal Order (the "Second MTV"). After multiple hearings, the Second MTV was denied at the hearing held on December 20, 2018. An order denying the Second MTV was entered on January 3, 2019.

Separate from events in the Main Case, the Debtor filed a complaint on August 25, 2017, alleging a claim for damages for violation of the automatic stay, violations of various civil rights statutes, and generally seeking to have Claim No. 3 of Real Time Resolutions, Inc. disallowed (the "Complaint"). The Complaint initiated an adversary proceeding related to the Main Case.

On January 14, 2019, the Debtor filed her Motion and Notice for Reconsideration; (2) Clarification on Dismissal as to what party; (3) Order to Show

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CONT...

Luevina Henry

Chapter 13

Cause as to why the Adversary Proceeding should not be Dismissed. 9th Circuit Court of Appeals has ruled on the Adversary Proceeding. Rule 60(b)(3) for Fraud on the Court by Rod Danielson and other parties (the "Motion"). The Motion appears to seek reconsideration of the Court's order denying the MTV. However, the Motion was improperly filed in the Debtor's adversary proceeding as opposed to being filed in the Main Case. On January 25, 2019, Defendant JPMorgan Chase Bank filed its opposition to the Motion.

DISCUSSION

As a threshold matter, the Motion was filed in the wrong case because the primary relief sought by the Debtor appears to be a request for reconsideration of the Court's order denying the MTV which was entered as to the Main Case and not as to the instant adversary proceeding. On that basis, the Court will deny the motion without prejudice as procedurally improper. However, the Court will nonetheless attempt to address some of the Debtor's concerns. First, The Debtor's Motion indicates that she lacks clarity about that the Main Case and adversary proceeding are distinct, but related, proceedings.

The Main Case

The Main Case is the chapter 13 proceeding wherein debtors propose plans of repayment to their creditors. In the Debtor's chapter 13 proceeding, Rod Danielson is the chapter 13 trustee. As such he has various statutory duties. Specifically,

the chapter 13 trustee serves the interests of all creditors primarily by collecting payments from debtors and disbursing them to creditors.

.... But a chapter 13 trustee "is no mere disbursing agent." ... § 1302 grants the chapter 13 trustee various powers to ensure that such collections and disbursements occur equitably, according to the dictates of Congress. Under subsection (b)(1) of § 1302, the chapter 13 trustee has the power contained in § 704(5) to "examine proofs of claims and object to the allowance of any claim that is improper." And under subsection (b)(2) of § 1302 that trustee is granted standing to "appear and be heard" in a hearing to confirm a Chapter 13 plan.

Matter of Maddox, 15 F.3d 1347, 1355 (5th Cir. 1994) (cited with approval in *In re*

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CONT... Luevina Henry

Chapter 13

Andrews, 49 F.3d 1404, 1408 (9th Cir. 1995)).

The Debtor's Motion indicates that she is not clear when the Main Case was dismissed. As set forth above, the Main Case was dismissed on July 25, 2018. The Dismissal Order is Docket No. 159 and the Debtor can obtain a copy of the Dismissal of the Order from the Clerk's Office. When the Main Case was terminated, the Debtor's chapter 13 proceeding for reorganization and payment of the Debtor's prepetition debts was terminated.

Next, the Debtor has provided an unauthenticated copy of a January 3, 2019, letter from the Trustee wherein he states that that he does not represent the debtor or creditors and cannot provide legal advice. The Debtor interprets this letter to mean that Mr. Danielson is not the "Trustee of the debtor or the creditor" and on that basis, the Debtor asserts that Mr. Danielson had no standing to take any actions in her case and generally that he has misrepresented himself and perpetuated some alleged fraud on the Court.

The Debtor, however, does understand Mr. Danielson's letter and his role in the bankruptcy proceedings. The Trustee is simply stating to the Debtor that he cannot provide legal representation for the Debtor or for the Debtor's creditors. That is correct. Mr. Danielson is the trustee for the estate's of debtors in chapter 13 bankruptcies within the jurisdiction of the Riverside Division of the Central District of California. His duties as trustee are outlined in the Bankruptcy Code and as indicated above, serve the interest of the creditors (without specifically representing any individual creditor's interests) by collecting payments from debtors and disbursing them to creditors, while also ensuring that monies are disbursed in accordance with the requirements of the Bankruptcy Code. *Matter of Maddox*, at 1355. The trustee does not represent individual creditors and does not represent the debtor but has a significant role in the debtor's bankruptcy as required under the Bankruptcy Code. And the Debtor has provided no evidence of any wrongdoing as to the Trustee.

Further, the Debtor disputes that payments were owed to creditors in the Main Case and asks who the Debtor owed money to. The Debtor is free to seek copies from the Clerk's office of the claims register for her case. Seven claims were filed amounting to a total of \$594,423. The Debtor only objected to one of the claims and never obtained an order disallowing any claims. The Trustee calculated the monthly plan payment based on claims filed in the case and as indicated on the record at the hearing on the MTV, the Debtor would have had to bring her plan current by paying a sum of \$5,600 in order to reinstate the Main Case. The Debtor indicated at the hearing that she did not have the funds to cure this deficiency and that was a primary reason why her MTV was denied.

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Thursday, February 7, 2019

Hearing Room 303

11:00 AM

CONT... Luevina Henry

Chapter 13

Finally, the Debtor asserts that she is entitled to a discharge in her Main Case but asserts no facts or authority to support such request.

The Adversary Case

As to the Adversary Case, the Debtor makes various references to a Ninth Circuit ruling in her favor, which is irrelevant to the Main Case. However, a review of the Court's docket reveals only one appeal determined by the Ninth Circuit BAP. Specifically, on October 30, 2017, Judge Jury entered an order granting a motion to dismiss the adversary complaint as to Sandy Garza. The Debtor appealed the ruling. The BAP sent the Debtor a letter indicating that the order on appeal did not appear final and requiring a response. The Debtor's response was interpreted by the Panel as confirming that the order on appeal was interlocutory and requesting dismissal without prejudice. On February 21, 2018, the BAP dismissed the appeal and, in its ruling, stated that the Debtor would have an opportunity to challenge any final judgment of the bankruptcy court. The Debtor has attached no evidence of any other ruling or statement by the BAP or Ninth Circuit impacting the adversary proceeding.

TENTATIVE RULING

Based on the foregoing, the Court is inclined to DENY the Motion as improperly filed in the adversary case, without prejudice to any rights the Debtor may have to seek relief in the Main Case.

As an aside, the Court finds patent merit in Chase's argument as to the procedural impropriety of the Motion. However, the Court shall defer deeper consideration of this argument until such time as the Debtor properly brings the Motion in the Main Case.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Luevina Henry

Pro Se

**United States Bankruptcy Court
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11:00 AM

CONT... Luevina Henry

Chapter 13

Defendant(s):

Real Time Resolutions Inc

Represented By
Renee M Parker

THE BANK OF NEW YORK

Represented By
Renee M Parker

Riverside County Sheriff

Represented By
Ronak N Patel

Tavares

Pro Se

Movant(s):

Luevina Henry

Pro Se

Plaintiff(s):

Luevina Henry

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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11:00 AM

6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#19.00 CONT Status Conference on Complaint fld 8-25-17 - Dischargeability, willful and malicious injury, validity, priority or extent of lien or other interest in property, injunctive relief

From: 11/16/17, 11/1/18, 12/20/18, 12/20/18

Also #18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luevina Henry

Pro Se

Defendant(s):

Real Time Resolutions Inc

Represented By
Renee M Parker

THE BANK OF NEW YORK

Represented By
Renee M Parker

Riverside County Sheriff

Represented By
Ronak N Patel

Tavares

Pro Se

Plaintiff(s):

Luevina Henry

Pro Se

**United States Bankruptcy Court
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11:00 AM

CONT... Luevina Henry

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:18-16932 Olivia Lopez

Chapter 13

#20.00 Trustee's Motion to Dismiss Case

EH__

Docket 55

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Olivia Lopez

Represented By
William Radcliffe

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:18-16178 Eriberto A. Sandoval

Chapter 13

#21.00 CONT Trustee's Motion to Dismiss Case

From: 1/17/19, 1/24/19

EH ____

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eriberto A. Sandoval

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:18-14761 Reginald D. Caldwell

Chapter 13

#22.00 CONT Trustee's Motion to Dismiss Case

From: 1/31/19

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reginald D. Caldwell

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:18-10957 Damaris Denise Redgray-Johnson

Chapter 13

#23.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/29/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Damaris Denise Redgray-Johnson

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:18-10170 Vernita Goodwin

Chapter 13

#24.00 CONT Trustee's Motion to Dismiss Case

From: 1/10/19

EH__

Docket 70

*** VACATED *** REASON: ADVANCED TO 1/24/19 AT 11:00 A.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:17-17469 Annette Culpepper

Chapter 13

#25.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annette Culpepper

Represented By
Nathan Fransen

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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Courtroom 303 Calendar

Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:17-15662 Jemill M Humphrey

Chapter 13

#26.00 Trustee's Motion to Dismiss Case

EH__

Docket 46

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jemill M Humphrey

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:17-13599 Maurice Frank Manceau

Chapter 13

#27.00 CONT Trustee's Motion to Dismiss Case

From: 1/10/19, 1/31/19

EH__

Docket 92

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maurice Frank Manceau

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:17-13239 Gerald Bauer

Chapter 13

#28.00 CONT Trustee's Motion to Dismiss Case

From: 1/31/19

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gerald Bauer

Represented By
Daniel King

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:17-12118 Veronica A Mendoza

Chapter 13

#29.00 CONT Trustee's Motion to Dismiss Case re Delinquency

From: 1/31/19

EH__

Docket 58

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Veronica A Mendoza

Represented By
Stephen S Smyth
William J Smyth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:16-10385 Adolfo Gonzalez and Angelica Gonzalez

Chapter 13

#30.00 Trustee's Motion to Dismiss Case

EH__

Docket 77

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Adolfo Gonzalez

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Angelica Gonzalez

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, February 7, 2019

Hearing Room 303

11:01 AM

6:15-13811 Christopher Lee Sumners

Chapter 13

#31.00 Trustee's Motion to Dismiss Case

EH__

Docket 97

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Lee Sumners

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Wednesday, February 13, 2019

Hearing Room 303

2:00 PM

6:19-10323 Carlos Barron

Chapter 13

#1.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 27447 Eagles Nest Drive, Corona CA 92883

MOVANT: CARLOS BARRON

EH__

Docket 16

Tentative Ruling:

02/13/2019
Service: Proper
Opposition: None

The prior case was dismissed on voluntary request for dismissal by the Debtor. The Motion indicates that the dismissal resulted from the fact that Debtor's intended sale of certain real property located at 27447 Eagles Nest Drive in Corona, CA ("Property") fell out of escrow. Attached to the Motion is evidence of a new residential purchase agreement signed on January 25, 2019. Debtor asserts that he intends to sell the Property with court approval, pay off secured creditors, and use the proceeds to fund a feasible chapter 13 plan. The evidence is sufficient to warrant continuance of the automatic stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Carlos Barron

Represented By
Michael D Franco

Movant(s):

Carlos Barron

Represented By
Michael D Franco

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, February 13, 2019

Hearing Room 303

2:00 PM

CONT... Carlos Barron

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 13, 2019

Hearing Room 303

2:00 PM

6:19-10452 Charles Lee Dismukes

Chapter 13

#2.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 2014 Toyota Tundra

MOVANT: CHARLES LEE DISMUKES

EH__

Docket 14

Tentative Ruling:

02/13/2019
Service: Proper
Opposition: None

The Debtor's first 2018 case had a plan confirmed on April 20, 2018. By May 1, 2018, the Trustee had already filed a Motion to Dismiss for delinquency. The case was dismissed on June 19, 2018 for failure to make plan payments. The Debtor's second 2018 case was dismissed on request of the Debtor at confirmation. The Debtor requested 10 days to convert his case to a case under chapter 7 but never effectuated the conversion.

The Motion indicates and the Court's records confirm that the Debtor's prior two cases sought reorganization, in part, to pay arrears owed on a loan secured by real property. The Motion indicates that since the filing of the prior two filings, the Debtor has allowed the secured lender to foreclose on his residence. In lieu of the approximately \$1,700 in mortgage expense, the Debtor will now be paying approximately \$500 in monthly rent. The significant change in the Debtor's financial condition has increased his disposable income sufficiently to demonstrate by clear and convincing evidence that the instant case was filed in good faith.

The Court is inclined to GRANT the Motion.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
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Wednesday, February 13, 2019

Hearing Room 303

2:00 PM

CONT... Charles Lee Dismukes

Chapter 13

Debtor(s):

Charles Lee Dismukes

Represented By
Nicholas M Wajda

Movant(s):

Charles Lee Dismukes

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 13, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#3.00 CONT Motion of the Debtor and Debtor-in- Possession for Order Approving Management Agreement

From: 1/15/19, 1/29/19

EH__

Docket 290

Tentative Ruling:

02/13/2019

The Court has evaluated the PCO's Amended Second Statement and the Debtor's response. The PCO opposes employment of HMS due to what he asserts is evidence of a material compromise in patient care. The PCO's position is supported by his own declaration and review, as well as by the declaration and report of David R. Hoffman.

Of note, the Court agrees with the PCO that there are documented deficiencies in the Debtor's and, by extension, HMS's oversight of the Debtor's staff. The various reports certainly point to evidence of lapses in documentation and failure to update patient plans of care (POCs) to provide up-to-date information regarding patients' prescribed medications and the frequency with which such medications must be administered. The Court does not dispute that such issues are problematic and must be addressed. However, on the other hand, the Court agrees with the Debtor that it has already been evaluated by state regulatory authorities, and while the CDPH report corroborates the lapses in documentation and care, the same report of the CDPH determined the Debtor to be in compliance with CoPs (Conditions of Participation), notwithstanding its findings.

Moreover, the PCO provided the Court a copy of its correspondence with CHAP (the organization which typically provides the Debtor with its accreditations). Here, notwithstanding the nonpayment of CHAP fees, the PCO's correspondence with CHAP similarly resulted in a response by CHAP that given the CDPH's finding that the Debtor was in compliance with CoPs, it "would not typically pursue review of the organization." This is presumably despite the PCO having provided CHAP with

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2:00 PM

CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

documentation evidencing an alleged material compromise in patient care.

In sum, both the State and the third party accreditation agency apparently reviewed the concerns raised by the PCO and found them insufficiently egregious to warrant official corrective action. Separately, the Debtor has provided convincing evidence that the Debtor's position in 2016 was far worse than it is today and the improvement in the Debtor's financial situation and future prospects appears to be, at least in part, attributable to HMS.

Weighing the PCO's concern against the Debtor's evidence that it has exercised good business judgment, the Court ultimately finds that there is insufficient evidence that the lapses in care are so egregious as to compel the Court to deny the Debtor's motion to approve the agreement with HMS. However, as discussed at the prior hearing, the Court intends to condition approval of the agreement with a provision in the order for Court review of HMS's fees under a reasonableness standard. As a part of this review, the Court will take into consideration HMS's efforts to address the deficiencies noted in the CDPH report.

Finally, the Court sees no reason to deny the Debtor's request for an order approving the Agreement nunc pro tunc to the petition date. In particular, as this Court has acknowledged, the problems occasioned by the Debtor's need to change counsel early in the case warrant exception for some of the delay in bringing the Motion.

APPEARANCES REQUIRED.

01/29/2019

BACKGROUND

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor") filed a Chapter 11 voluntary petition. Debtor is a not-for-profit home health services organization with approximately 160 employees and 360 patients. At the time of filing, Debtor had three patients centers: Riverside, Palm Desert, and Murrieta.

On December 20, 2018, the Debtor filed a Motion for Order Approving Management Agreement with Healthsure Management Services, LLC (HMS) ("Motion"), pursuant to 11 U.S.C. § 363(b). The Motion seeks an order approving the

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Wednesday, February 13, 2019

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2:00 PM

CONT... **Visiting Nurse Association of the Inland Counties**

Chapter 11

management agreement with HMS, to provide "management, financial, technology and healthcare services" to the Debtor (the "Agreement"). The Agreement provides for HMS to manage the daily operations of the Debtor with compensation to be paid on a monthly basis, except for a portion that shall be deferred so that the Debtor remains solvent postpetition. (Motion at 2:11-16). HMS has provided management services to the Debtor since October 2016. (Furman Decl. ¶2). Debtor believes approval of the Motion is necessary and appropriate to provide continuity of management of the Debtor. (*Id.* at ¶3). The Debtor seeks approval of the Agreement pursuant to 11 U.S.C. § 363(b).

On January 2, 2019, Jerry Seelig, the Patient Care Ombudsman ("PCO"), filed a statement related to the Motion. On January 2, 2019, the Debtor, Committee, the H.N. and Frances C. Berger Foundation ("Foundation"), and the PCO filed their stipulation to continue the hearing (the "Stipulation"). The Court approved the Stipulation. On January 14, 2019, the Foundation timely filed its opposition to the Motion ("Opposition"). On January 22, 2019, the Debtor timely replied ("Reply").

As a threshold matter, the PCO asserts that HMS has (1) failed to implement corrective actions required under a 2017 Accreditation Report, and (2) is failing to provide adequate care delivery for hospice patients. The PCO recommends that the Court defer a ruling on the Motion until the California Department of Public Health (CDPH) concludes its review of the Debtor's operation and issues a Statement of Deficiencies. The Court notes that the PCO cannot provide certainty that such a statement will be issued. The PCO separately requests that the Court require the Debtor to provide information regarding staffing levels and ratios, and requests that the Board of Visiting Nurse Association of the Inland Counties should complete a thorough review of any such report.

The Foundation argues that HMS must be employed pursuant to 11 U.S.C. § 327, but if employed under § 327 the Motion does not meet requirements for employment under applicable law, and the Debtor has not established "exceptional circumstances" to justify nunc pro tunc relief as requested.

DISCUSSION

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Wednesday, February 13, 2019

Hearing Room 303

2:00 PM

CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

Employment pursuant to § 363 versus §327

First, as to the Foundation's arguments that HMS should be employed pursuant to § 327 in lieu of § 363, the Court has evaluated and agrees with the Debtor that the weight of authority supports the availability of § 363 as a vehicle for retention of management professionals and/or consultants. *In re Nine W. Holdings, Inc.*, 588 B.R. 678, 686 (Bankr. S.D.N.Y. 2018). Further, as indicated by the Debtor, such retentions have long been authorized by the courts of the Central District of California. (Mot. at 4:4-13). In this case, where the evidence indicates that has provided management services to the Debtor since 2016, the Court agrees with the analysis of the *Nine West Court*, *inter alia*, that "rehabilitating a debtor and preserving the value of the debtor's business—significant Code-related objectives—can be best accomplished here by permitting the Debtors to utilize their estate assets under section 363 of the Code to hire the advisory services firm and its personnel who played key management roles at the company prepetition, thus ensuring the continuity of such services." *Nine West* at 691.

Nunc Pro Tunc Employment

Nunc pro tunc employment is limited to "exceptional circumstances where an applicant can show both [1] a satisfactory explanation for the failure to receive prior judicial approval and [2] that he or she has benefited the bankruptcy estate in some significant manner" (collectively, these two factors is referred to as the "THC Factors"). *Okamoto v. THC Fin'l Corp. (In re THC)*, 837 F.2d 389, 392 (9th Cir. 1988). As to nunc pro tunc employment, the Foundation's evidentiary objections are well-taken. Specifically, the Debtor has provided a de minimis declaration attesting to the business justification for the retention of HMS. Moreover, the Court is concerned that there is a lack of clarity distinguishing the contours of the Agreement with HMS from the services being provided by Force 10. The Court is inclined to permit the Debtor an opportunity to provide supplemental evidence outlining the management structure of the Debtor assuming both entities are employed. This is particularly important given the potential costs of permitting the Debtor to enter into agreements with two separate management-type entities.

TENTATIVE RULING

Based on the foregoing, the Court is inclined to CONTINUE the hearing for

**United States Bankruptcy Court
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Wednesday, February 13, 2019

Hearing Room 303

2:00 PM

CONT... **Visiting Nurse Association of the Inland Counties**
supplemental evidence.

Chapter 11

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

Movant(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
David M Goodrich
Beth Gaschen
Beth Gaschen
Jennifer Vicente
Jennifer Vicente
Ryan W Beall
Ryan W Beall

**United States Bankruptcy Court
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Wednesday, February 13, 2019

Hearing Room 303

2:00 PM

6:18-11717 Jordan Halston Amini

Chapter 7

Adv#: 6:18-01132 Marquez v. Amini

#4.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01132. Complaint by Gustavo Marquez against Jordan Halston Amini . false pretenses, false representation, actual fraud)) ,(68 (Dischargeability - 523(a)(6), willful and malicious injury))

From: 8/22/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jordan Halston Amini	Pro Se
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Defendant(s):

Jordan Halston Amini	Pro Se
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Plaintiff(s):

Gustavo Marquez	Represented By Curtis M King
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Trustee(s):

Steven M Speier (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 13, 2019

Hearing Room 303

3:00 PM

6:16-19993 B & B Family, Incorporated

Chapter 11

#5.00 Joint Motion for Order Approving Compromise of Controversy Which Includes Reorganized Debtor Selling Its Business

EH__

Docket 211

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B & B Family, Incorporated

Represented By
Todd L Turoci
Julie Philippi

Movant(s):

Patricia Forte

Represented By
D Edward Hays

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 20, 2019

Hearing Room 303

2:00 PM

6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01106 Bankers Healthcare Group, LLC v. Johnson

#1.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01106. Complaint by Bankers Healthcare Group, LLC against Vance Zachary Johnson. 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))

From: 7/10/18

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/24/19 AT 2:00 PM**

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Bankers Healthcare Group, LLC

Represented By
Todd L Turoci

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:19-10475 Natasja Bianca Barberi

Chapter 7

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 HONDA CIVIC, VIN: 2HGF C2F5 7GH5 36032

MOVANT: HONDA LEASE TRUST

EH__

Docket 8

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Natasja Bianca Barberi

Represented By
Edward G Topolski

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

**United States Bankruptcy Court
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10:00 AM

CONT... Natasja Bianca Barberi

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:19-10431 Ariella Joi Jackson

Chapter 7

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 HONDA CIVIC, VIN: 2HGF C2F7 4JH5 02493

MOVANT: HONDA LEASE TRUST

EH__

Docket 13

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ariella Joi Jackson

Pro Se

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Robert Whitmore (TR)

Pro Se

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

6:19-10426 Ebonee Small

Chapter 7

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 1333 Reche Canyon Road #1006 Colton, CA 92324

MOVANT: CANYON HOUSING PARTNERS, LLC

EH__

Docket 10

*** VACATED *** REASON: CASE DISMISSED 2/5/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ebonee Small

Pro Se

Movant(s):

Todd Brisco

Represented By
Todd A Brisco

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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10:00 AM

6:19-10241 Gary R. Horton, Jr.

Chapter 7

#4.00 Motion for Relief from the Automatic Stay with supporting declarations
PERSONAL PROPERTY (Flattened) (Re: related document(s) 11 Motion for
Relief from the Automatic Stay Personal Property Re: 2017 Jeep Renegade,
VIN: ZACCJABB9HPE62836)

MOVANT: FIRST TECH FEDERAL CREDIT UNION

EH__

Docket 14

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)
(1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY
request under ¶ 9 for lack of cause shown. Specifically, the Court notes that dismissal
of a single previous case for failure to timely submit pay advices is inadequate to
support the relief under ¶ 9.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gary R. Horton Jr.

Represented By
Patricia M Ashcraft

Movant(s):

First Tech Federal Credit Union

Represented By
Nichole Glowin

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CONT... Gary R. Horton, Jr.

Chapter 7

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:19-10237 Alicia Elaine Lentz

Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 BMW 5 SERIES, VIN WBAFR7C58DC824880

MOVANT: PARTNERS FEDERAL CREDIT UNION

EH__

Docket 9

Tentative Ruling:

2/26/2019

Service is Okay
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Alicia Elaine Lentz

Represented By
Edgar P Lombera

Movant(s):

Partners Federal Credit Union

Represented By
Yuri Voronin

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CONT... Alicia Elaine Lentz

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:19-10184 George Vermeer and Sharon J Vermeer

Chapter 7

#6.00 Amended Motion (related document(s): 19 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 7050 James River Dr., Mira Loma, CA 91752

MOVANT: KADHAR M. SAHIB

EH__

Docket 32

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY relief from co-debtor stay because this is a Chapter 7 proceeding. DENY requests under ¶¶ 7, 9, and 11 for lack of cause shown.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

George Vermeer

Represented By
David A Akintimoye

Joint Debtor(s):

Sharon J Vermeer

Represented By
David A Akintimoye

Movant(s):

Kadhar M. Sahib

Represented By

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CONT... George Vermeer and Sharon J Vermeer

Chapter 7

Theresa A Jones

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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10:00 AM

6:19-10067 Carolise Lynn Armstead

Chapter 7

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Kia Rio, VIN: KNADN5A35H6802929

MOVANT: SANTANDER CONSUMER USA INC

EH__

Docket 16

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Carolise Lynn Armstead Pro Se

Movant(s):

Santander Consumer USA Inc. Represented By
Jennifer H Wang

Trustee(s):

Larry D Simons (TR) Pro Se

**United States Bankruptcy Court
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10:00 AM

6:18-20756 Karl W Detlefsen

Chapter 7

#8.00 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Jennifer M vs Karl Detlefsen, docket number BC701876 Superior Court of California, LA - Stanley Mosk Courthouse

MOVANT: JENNIFER MASLAR

EH__

Docket 7

Tentative Ruling:

2/26/19

On December 27, 2018, Karl Detlefsen ("Debtor") filed a Chapter 7 voluntary petition. On Schedule F, Debtor listed Jennifer Maslar ("Creditor") as the holder of an unsecured claim in the amount of \$2,250,000.

On January 29, 2019, Creditor filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for sexual battery and intentional infliction of emotional distress.

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

- (1) Whether the relief will result in a partial or 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 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

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CONT...

Karl W Detlefsen

Chapter 7

parties, and the debtor functions only as a bailee or conduit for the good or proceeds in question; (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties; (8) whether the judgment claim arising from the foreign action is subject to equitable subordination; (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). In *Roger*, the Court further stated:

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all.

Here, the Court agrees with Creditor that the above-enumerated factors appear to weigh in favor of granting Creditor relief from the automatic stay. Specifically, the instant bankruptcy case is a no-asset, Chapter 7 case, the state court proceeding includes state law claims and would not have any effect on the administration of the estate (which appears to have been essentially completed), and the state court litigation has pending for nearly a year.

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CONT... Karl W Detlefsen

Chapter 7

Furthermore, Creditor has argued that abstention is mandatory under 28 U.S.C. § 1334(c)(2). Additionally, pursuant to 28 U.S.C. § 157(b)(5), it is unclear whether the bankruptcy court could even exercise subject matter jurisdiction over Creditor's state law intentional tort claims. For this reason, the Court finds it to be necessary to grant relief from the automatic stay.

Nevertheless, Creditor makes reference to the non-dischargeability of any resulting judgment secured in state court. It appears that in order to secure non-dischargeability, Creditor would be required to file an adversary complaint more than three months prior to the currently scheduled state court trial. On the record before the Court, it is unclear whether such an adversary proceeding would require the relevant issues to be relitigated. Therefore, notwithstanding the above, this Court does have some concerns that it is possible that Creditor could ultimately end up with two simultaneous, or sequential, courses of litigation.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Karl W Detlefsen

Represented By
Christopher Hewitt

Movant(s):

Jennifer Maslar

Represented By
Sanaz S Bereliani

Trustee(s):

Robert Whitmore (TR)

Pro Se

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10:00 AM

6:18-20714 Kenneth Ray Flanagan and Krista Ann Flanagan

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6041 Gold Spirit Street, Corona, CA 92880

MOVANT: HSBC BANK USA N.A.

EH__

Docket 8

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). DENY request for relief pursuant to § 362(d)(2) for lack of cause shown. GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Kenneth Ray Flanagan	Pro Se
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Joint Debtor(s):

Krista Ann Flanagan	Pro Se
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Movant(s):

HSBC Bank USA, N.A.	Represented By Darlene C Vigil
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CONT... Kenneth Ray Flanagan and Krista Ann Flanagan

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

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6:18-20393 Teodocio Cruz Delgado and Carlota Lopez

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Kia Optima, VIN: KNAGU4LE1H5013305

MOVANT: KIA MOTORS FINANCE

EH__

Docket 12

Tentative Ruling:

2/26/2019

Service is Proper

Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Teodocio Cruz Delgado

Represented By
James Geoffrey Beirne

Joint Debtor(s):

Carlota Lopez

Represented By
James Geoffrey Beirne

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CONT... Teodocio Cruz Delgado and Carlota Lopez

Chapter 7

Movant(s):

Kia Motors Finance

Represented By
Jennifer H Wang

Trustee(s):

Charles W Daff (TR)

Pro Se

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6:18-20263 Christopher George Whitaker and Laurie Hoover Whitaker Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Ford Escape, VIN: 1FMCU0G93GUC59750

MOVANT: FORD MOTOR CREDIT COMPANY LLC

EH__

Docket 12

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Christopher George Whitaker Pro Se

Joint Debtor(s):

Laurie Hoover Whitaker Pro Se

Movant(s):

Ford Motor Credit Company LLC Represented By
Jennifer H Wang

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CONT... Christopher George Whitaker and Laurie Hoover Whitaker

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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10:00 AM

6:18-19376 Matthew J Whyte and Laura M Whyte

Chapter 13

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 74747 King Fisher Circle, Palm Desert, California 92260

MOVANT: WELLS FARGO BANK, N.A.

EH__

Docket 28

Tentative Ruling:

2/26/2019

Service is Proper

Opposition: Yes

Regarding Movant's argument that the automatic stay has terminated in the instant case, Movant's assertion is incorrect because 11 U.S.C. § 362(c)(3) only applies when a previous case has been dismissed. Here, Debtors' only previous case in the year prior to the petition date of the instant case resulted in a discharge. Therefore, the Court will DENY the request for relief under ¶ 14.

Regarding Movant's argument that the case was filed in bad faith due to previous bankruptcy filings, the Court notes that Debtors have two previous filings, both Chapter 7 cases which resulted in discharge. The instant case is a Chapter 13 proceeding, making this case what is commonly referred to as a Chapter 20 case. It has been uniformly established that the filing of a Chapter 13 case shortly after receiving a Chapter 7 discharge does not constitute bad faith. Therefore, the Court will DENY the request for relief pursuant to § 362(d)(4).

Regarding the remainder of Movant's requests, the parties are to apprise the Court regarding the status of the arrears and adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

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CONT... Matthew J Whyte and Laura M Whyte

Chapter 13

Debtor(s):

Matthew J Whyte

Represented By
William J Howell

Joint Debtor(s):

Laura M Whyte

Represented By
William J Howell

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

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10:00 AM

6:18-18679 Leobardo Joaquin Bautista

Chapter 7

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Jeep Grand Cherokee, VIN: 1C4RJFDJ2FC852691

MOVANT: SANTANDER CONSUMER USA INC

EH__

Docket 20

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Leobardo Joaquin Bautista

Represented By
Summer M Shaw
Jenny L Doling

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

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CONT... Leobardo Joaquin Bautista

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

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10:00 AM

6:18-17700 Nick Caropino

Chapter 13

#14.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2339 Three Bar Lane, Norco, CA 92860

MOVANT: NATIONSTAR MORTGAGE LLC

From: 1/29/19

EH__

Docket 33

***** VACATED *** REASON: ORDER ENTERED 2/20/19**

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3, and 12. DENY alternative request under ¶ 13 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Nick Caropino

Represented By
Julie J Villalobos

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Angie M Marth

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CONT... Nick Caropino

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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10:00 AM

6:18-16489 Rebecca Moore

Chapter 13

#15.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23093 Canyon Hills Drive, Corona, California 92883

MOVANT: HSBC BANK USA, NATIONAL ASSOCIATION

From: 1/8/19

EH__

Docket 36

***** VACATED *** REASON: ORDER ENTERED 2/22/19**

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: Yes

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request for relief pursuant to § 362(d)(4) based on unauthorized transfer of interest and multiple bankruptcy filings affecting the property, which the Court finds evidences a scheme to hinder, delay, or defraud Movant. GRANT waiver of Rule 4001(a)(3) stay. GRANT relief from § 1301(a) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Rebecca Moore

Represented By
Edward T Weber

Movant(s):

HSBC Bank USA, National

Represented By

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CONT... Rebecca Moore

Chapter 13

Jamie D Hanawalt
Gilbert R Yabes
Raymond Jereza

Trustee(s):

Rod Danielson (TR)

Pro Se

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10:00 AM

6:18-15850 Restart Solar, LLC

Chapter 7

#16.00 Motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Litigation Action

Movant: HYPERION ENERGY MARKETING INC

EH__

Docket 25

Tentative Ruling:

2/26/19

On July 12, 2018, Restart Solar, LLC ("Debtor") filed a Chapter 7 voluntary petition. On Schedule F, Debtor listed Hyperion Energy Marketing Inc. ("Creditor") as the holder of an unsecured claim in the amount of \$400,000.

On January 23, 2019, Creditor filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for breach of contract, account stated, services rendered, quantum meruit, fraud, and negligent representation.

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

- (1) Whether the relief will result in a partial or 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 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 good or

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CONT...

Restart Solar, LLC

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proceeds in question; (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties; (8) whether the judgment claim arising from the foreign action is subject to equitable subordination; (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). In *Roger*, the Court further stated:

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all.

Here, the Court agrees that the above-enumerated factors appear to weigh in favor of granting Creditor relief from the automatic stay. Specifically, the state court proceeding includes state law claims and has been pending for more than a year. Additionally, it appears that the state court litigation will not have any effect on the administration of the estate, especially because it appears that Creditor is primarily concerned with attempting to collect from Debtor's principals. Furthermore, Creditor has argued that abstention is mandatory under 28 U.S.C. § 1334(c)(2), and the Court

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CONT... Restart Solar, LLC

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agrees that it appears that abstention is statutorily required, further weighing in favor of relief from stay being granted. Therefore, the Court is inclined to GRANT relief from stay pursuant to § 362(d)(1), GRANT Creditor's request under ¶ 2, and GRANT waiver of the Rule 4001 stay.

The Court will DENY Creditor's request for relief from the co-debtor stay, because this is a Chapter 7 proceeding. The Court will DENY Creditor's request for annulment of the automatic stay because Creditor has not provided any evidence or justification to support the relief requested. Finally, the Court is inclined to DENY the request for relief under ¶¶ 6 and 7 because Creditor has not provided any evidence or rationale to support the granting of these unusual requests.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Restart Solar, LLC

Represented By
Sunil A Brahmhatt

Movant(s):

Hyperion Energy Marketing, Inc.

Represented By
Charles Shamash

Trustee(s):

Steven M Speier (TR)

Represented By
Ryan S Riddles
Robert P Goe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:18-14725 Percylyn Agustin Basa

Chapter 13

#17.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 14623 Meadowsweet Dr Eastvale, CA 92880

MOVANT: NATIONSTAR MORTGAGE LLC dba MR COOPER

From: 1/8/19, 2/5/19

EH__

Docket 56

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: Yes

Movant to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Percylyn Agustin Basa

Represented By
Benjamin R Heston

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Angie M Marth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:18-14164 Charles Williams, III

Chapter 13

#18.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11028 White Oak Lane, Fontana, CA 92337

MOVANT: FREEDOM MORTGAGE CORPORATION

EH__

Docket 46

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from § 1301 co-debtor stay. GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2, 3 and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Charles Williams, III

Represented By
Stephen L Burton

Movant(s):

Freedom Mortgage Corporation

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:18-11701 Wayne Anthony King and Traci Ann Zweck

Chapter 13

#19.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6580 Valinda Avenue, Rancho Cucamonga, CA 91737

MOVANT: DITECH FINANCIAL LLC

From: 2/5/19

EH__

Docket 59

***** VACATED *** REASON: ORDER ENTERED 2/22/19**

Tentative Ruling:

02/05/2019
Service: Proper
Opposition: Yes

The Debtors propose an APO to resolve the Motion. Parties to update the Court regarding the status of negotiations.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Wayne Anthony King

Represented By
Dana Travis

Joint Debtor(s):

Traci Ann Zweck

Represented By
Dana Travis

Movant(s):

Ditech Financial LLC

Represented By
Jamie D Hanawalt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

**CONT... Wayne Anthony King and Traci Ann Zweck
Caren J Castle**

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:17-18340 Cary Allen Griggs and Heather Lynn Griggs

Chapter 13

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1230 Via Pintada, Riverside, CA 92506

MOVANT: HSBC BANK USA, NATIONAL ASSOCIATION

EH__

Docket 47

***** VACATED *** REASON: ORDER ENTERED 2/26/19**

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Cary Allen Griggs

Represented By
Ronald W Ask

Joint Debtor(s):

Heather Lynn Griggs

Represented By
Ronald W Ask

Movant(s):

HSBC Bank USA, National

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

CONT... Cary Allen Griggs and Heather Lynn Griggs

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:17-16542 Mike A. Granados, Jr. and Carolynne Jeannette Granados Chapter 13

#21.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 12370 Oaks Avenue, Chino, CA 91710

MOVANT: FREEDOM MORTGAGE CORPORATION

From: 1/29/19

EH__

Docket 38

***** VACATED *** REASON: ORDER ENTERED 1/29/19**

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: Yes

The motion indicates that Debtors are four months delinquent on postpetition payments. Debtors' opposition, however, appears to argue that Debtors are only approximately two payments delinquent. Parties to discuss this material discrepancy and whether parties desire to enter into an adequate protection agreement.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mike A. Granados Jr.

Represented By
Gregory M Shanfeld

Joint Debtor(s):

Carolynne Jeannette Granados

Represented By
Gregory M Shanfeld
Gabiella Gonzales

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

CONT... Mike A. Granados, Jr. and Carolynne Jeannette Granados

Chapter 13

Movant(s):

Freedom Mortgage Corporation

Represented By
Nancy L Lee
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:17-16439 Oscar Avila

Chapter 13

#22.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5219 Washington Avenue, Chino CA 91710

MOVANT: U.S. BANK TRUST, N.A.

EH__

Docket 63

***** VACATED *** REASON: ORDER ENTERED 2/11/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Avila

Represented By
Sanaz S Bereliani

Movant(s):

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

Represented By
Ashish R Rawat
Francis Laryea
Christina J O

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:17-16114 Allan Omar Ramos

Chapter 13

#23.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2271 Davidson Avenue, San Bernardino, CA 92405

MOVANT: LAKEVIEW LOAN SERVICING LLC

EH__

Docket 32

*** VACATED *** REASON: ORDER ENTERED 2/11/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allan Omar Ramos

Represented By
Julie J Villalobos

Movant(s):

Lakeview Loan Servicing, LLC., and

Represented By
Christina J O

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:17-13523 Loretta Chavis

Chapter 13

#24.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 837 Michigan Ave, Beaumont, CA 92223

MOVANT: SUN WEST MORTGAGE COMPANY INC

From: 11/27/18, 1/29/19

EH__

Docket 26

Tentative Ruling:

11/27/2018

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3 and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Loretta Chavis

Represented By
Dan Perry

Movant(s):

Sun West Mortgage Company, Inc.,

Represented By
Nichole Glowin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:17-12748 William A. Mendez, II and Shawna D. Mendez

Chapter 7

#25.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2006 FORD SUPER DUTY F250, VIN: 1FTS X21P X6EA 17380

MOVANT: MECHANICS BANK

EH__

Docket 147

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: None

As noted in the motion, Debtors received a discharge on August 15, 2018, which, pursuant to 11 U.S.C. § 362(c)(2), terminated the automatic stay as to Debtors. While Movant indicates that it is seeking relief from stay as to the estate, the Court notes that the subject property was abandoned by Trustee on May 21, 2018, thereby terminating the automatic stay as to the estate pursuant to 11 U.S.C. § 361(c)(1). As a result, there is no automatic stay in effect, and the Court will DENY the motion as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

William A. Mendez II

Represented By
Thomas J Polis

Joint Debtor(s):

Shawna D. Mendez

Represented By
Thomas J Polis

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

CONT... William A. Mendez, II and Shawna D. Mendez

Chapter 7

Movant(s):

MECHANICS BANK

Represented By
Vincent V Frounjian

Trustee(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Lindsey L Smith
Carmela Pagay

**United States Bankruptcy Court
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Hearing Room 303

10:00 AM

6:16-16909 Edward Edmund Zozaya and Georgia Parrilla Zozaya

Chapter 13

#26.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 9617 Surrey Ave, Montclair, California 91763

MOVANT: WELLS FARGO BANK, NATIONAL ASSOCIATION

From: 1/29/19

EH__

Docket 234

Tentative Ruling:

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Edward Edmund Zozaya

Represented By
Dana Travis

Joint Debtor(s):

Georgia Parrilla Zozaya

Represented By
Dana Travis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

10:00 AM

CONT... Edward Edmund Zozaya and Georgia Parrilla Zozaya

Chapter 13

Movant(s):

Wells Fargo BAnk, N.A.

Represented By
April Harriott
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:16-15672 Daniel Guerrero and Christina Guerrero

Chapter 13

#27.00 Motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 25679 Motte Circle Romoland, CA 92585

MOVANT: CARRINGTON MORTGAGE SERVICES LLC

EH__

Docket 49

***** VACATED *** REASON: CONTINUED TO 3/26/19 AT 10:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Guerrero

Represented By
Gregory M Shanfeld

Joint Debtor(s):

Christina Guerrero

Represented By
Gregory M Shanfeld

Movant(s):

Carrington Mortgage Services, LLC

Represented By
Diana Torres-Brito
Alexander G Meissner
Asya Landa

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:16-11309 Aurelio Palma

Chapter 13

#28.00 Motion for relief from the automatic stay with supporting declarations REAL
PROPERTY RE: 676 East Scott St. Rialto, CA 92376

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

EH__

Docket 53

***** VACATED *** REASON: ORDER ENTERED 2/14/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Aurelio Palma

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Deutsche Bank National Trust

Represented By
Asya Landa
Melissa A Vermillion
Bonni S Mantovani
Diana Torres-Brito

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:15-20006 Carl J Charlot and Jacinta S Charlot

Chapter 13

#29.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 Kia Optima, VIN: 5XXGM4A76CG037577

MOVANT: WELLS FARGO BANK, N.A.

EH__

Docket 81

***** VACATED *** REASON: ORDER ENTERED 2/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carl J Charlot

Represented By
Michael A Younge

Joint Debtor(s):

Jacinta S Charlot

Represented By
Michael A Younge

Movant(s):

Wells Fargo Bank, N.A. d/b/a Wells

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:15-14687 Vernia Jean Mosby

Chapter 13

#30.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11582 Holly Oak Dr, Fontana, California 92337

MOVANT: WILMINGTON SAVINGS FUND SOCIETY, FSB

EH__

Docket 111

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Vernia Jean Mosby

Represented By
Nancy Korompis

Movant(s):

Wilmington Savings Fund Society,

Represented By
Arnold L Graff
Joseph C Delmotte
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Tuesday, February 26, 2019

Hearing Room 303

10:00 AM

6:19-10939 Jennifer Meador

Chapter 13

#30.10 Amended Motion (related document(s): 4 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: Real Property 1301 3rd St #7, Calimesa

MOVANT: LAUREL ST PARTNERS

EH__

Docket 11

*** VACATED *** REASON: CASE DISMISSED 2/25/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Meador

Pro Se

Movant(s):

Laurel St. Partners

Represented By
William E Windham

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, February 26, 2019

Hearing Room 303

2:00 PM

6:18-20003 LC Stahl LLC

Chapter 11

#31.00 Motion for Relief from Stay Automatic Stay Under 11 U.S.C. Section 362 (with supporting declarations) (Real Property)

MOVANT: LOAN FUNDER LLC, SERIES 1829

Also #32

EH__

Docket 52

***** VACATED *** REASON: CONTINUED TO 3/5/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

Movant(s):

Loan Funder LLC, Series 1829

Represented By
Jeffrey N Brown

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:18-20003 LC Stahl LLC

Chapter 11

#32.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 1/8/19

Also #31

EH ____

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

**United States Bankruptcy Court
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Tuesday, February 26, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#33.00 CONT Motion To Compel Payment Of Administrative Rent Or Immediate Rejection Of Lease And Related Relief

From: 11/27/18, 12/18/18

Also #34

EH__

Docket 194

Tentative Ruling:

2/26/19

BACKGROUND

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor") filed a Chapter 11 voluntary petition. On November 2, 2018, The H.N. and Frances C. Berger Foundation ("Berger Foundation") filed its motion to compel payment of administrative rent or immediate rejection of lease and related relief. On November 13, 2018, Debtor filed its opposition.

The subject of the motion is a lease dated August 15, 2008, for certain nonresidential real property located in Palm Desert, California. According to Berger Foundation, "[p]ursuant to the terms of lease, should the Debtor continue to occupy the premises after August 14, 2018, the lease obligation increases to approximately \$91,216.50 per month," [Dkt. No. 194, pg. 2] a doubling of the contractual monthly rental obligation. Berger Foundation requests: (1) that Debtor be compelled to cure the default on the lease or surrender the premises; and (2) allowance of an administrative expense claim in the amount of \$3,040.55 per day.

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2:00 PM

CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

Debtor's opposition argued that: (1) the lease cannot be assumed or rejected because the lease expired the day before the petition date; and (2) because the lease expired prepetition, the legal basis for the requested administrative expense claim is invalid.

On November 27, 2018, the Court held a hearing on the matter, and continue the hearing for three weeks for supplemental briefing. On December 18, 2018, the Court posted a tentative ruling prior to the continued hearing, indicating that it was inclined to hold that the lease terminated pre-petition, and, therefore, the lease was not an executory contract. The Court continued the matter again, allowing the parties the opportunity to further brief the matter, and to enable the parties to supplement the record to afford the Court the opportunity to assess Berger Foundation's request for administrative rent.

On January 18, 2019, Berger Foundation filed a supplement. On February 1, 2019, Debtor filed a response. Because Berger Foundation has not presented any new argument relating to 11 U.S.C. § 365, the Court is not inclined to modify its tentative, which is outlined in the first portion of the discussion section. Instead, the Court will address the parties' arguments relating to 11 U.S.C. § 503.

DISCUSSION

I. 11 U.S.C. § 365

The critical legal question at issue is whether the operative lease expired prepetition. Berger Foundation relies on 11 U.S.C. § 365(d)(3) as the basis for both its requests, and that provision states:

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2:00 PM

CONT...

Visiting Nurse Association of the Inland Counties

Chapter 11

The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any *unexpired* lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. The court may extend, for cause, the time for performance of any such obligation that arises within 60 days after the date of the order for relief, but the time for performance shall not be extended beyond such 60-day period. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f) of the section. Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(emphasis added).

As a general rule, an expired lease is no longer executory, and, therefore, is no longer assumable, if the lease expired prepetition. *See, e.g., In re Acorn Invs.*, 8 B.R. 506, 509-10 (Bankr. S.D. Cal. 1981). Therefore, the Court must determine whether the lease at issue expired prepetition. *See Robinson v. Chicago Hous. Auth.*, 54 F.3d 316, 320 (7th Cir. 1995) ("the federal law allowing 'unexpired' leases to be assumed calls for a determination whether a lease has ended under state law."). Here, Debtor argues that the lease expired pre-petition, resulting in a holdover tenancy, in which no privity of contract exists, while Berger Foundation argues that the lease became a month to month tenancy and, therefore, was not expired. While the parties appear to be agree on the operative legal standard, the parties disagree regarding how that standard applies to the facts here

Both parties refer to CAL. CIV. CODE § 1945, which states:

If a lessee of real property remains in possession thereof after the expiration of the hiring, and the lessor accepts rent from him, the parties are presumed to have renewed the hiring on the same terms and for the same time, not exceeding one month when the rent is payable monthly, nor in any case one year.

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CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

As a preliminary matter, the Court notes that it appears the above legal provision should not actually be applicable to the instant situation. Specifically, CAL. CIV. CODE § 1940(a), (c) states the following:

- (a) Except as provided in subdivision (b), this chapter shall apply to all persons who hire dwelling units located within this state included tenants, boarders, lodgers, and others, however denominated.
- (c) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

Here, the lease at issue was a commercial lease which would remove the lease from the purview of § 1945 based upon the plain language of § 1940. Nevertheless, the Court notes that there is ample caselaw, some of which is cited by the parties, in which California courts have applied § 1945 to commercial property. Although it is not clear to this Court why that section is inapplicable to the instant situation, the Court will defer to the state law courts on this issue of state law.

Ultimately, the argument of Berger Foundation boils down to the following:

In this case, after the expiration of the Lease terms (August 14, 2018), Debtor continued to occupy the Premises. Berger continued to accept the Debtor as a tenant and took no action to terminate the Debtor's leasehold interest in the Premises. To the contrary, as this Court's record reflects, from the outset, Berger has been focusing on receiving rent payments and, in fact, received post-petition payments of not less than \$15,000 as of the date of this Reply. Clearly, pursuant to Civil Code § 1945 and applicable California authority, the Lease converted to a month-to-month tenancy after August 14, 2018.

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CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

[Dkt. No. 278, pg. 3]. Debtor's argument, on the other hand, appears to be that Berger Foundation's actions in this case simply do not reflect clear consent to Debtor's continued possession of the premises.

First, there appears to be a timing issue which has not been identified by the parties. The operative lease expired, by its own terms, on August 14, 2018. The instant bankruptcy was filed on August 15, 2018. Therefore, assuming, *arguendo*, that rent was paid and accepted in a matter which would trigger the statutory presumption in CAL. CIV. CODE § 1945, such event would have occurred *after* the petition date. *City v. Hart*, 175 Cal. App. 3d 92, 94 (Cal. Ct. App. 1985) ("The statute provides the landlord's consent to the holding over is implied if he accepts rent from the tenant after the expiration of the lease. This consent to the holding over must be established **before** the statutory presumption of the same terms becomes effective.") (emphasis added). Therefore, the lease at issue would have been, as of the petition date, expired and not assumable. Quite simply, on the record before the Court, it is implausible that Berger Foundation could have undertaken any action in the fraction of the day before the instant bankruptcy filing which would have indicated consent to the creation of a month-to-month tenancy.

Furthermore, outside of the bankruptcy law issues raised above, Berger Foundation's position does not seem to be compatible with state law. Quite simply, the presumptions outlined in CAL. CIV. CODE § 1945 are analogous to contractual principles in common law. By remaining in possession of the property, and tendering a rental payment, a holdover tenant is making an offer; by accepting such tender, the landlord manifests his assent to such offer. Berger Foundation seems to be positing that the payment of any rent whatsoever, even a single dollar, subsequently accepted by the landlord, results in the extension of the lease terms on the original contractual terms.

Berger Foundation's argument, however, is inconsistent with fundamental contractual principles, for, in the case of a minimal rental payment, it cannot be said that either party has made an offer, accepted by the other party, to renew the original lease terms. At best, the landlord's implied acquiescence may be construed as an offer, yet the tenant's tender of a minimal rental payment can only be interpreted as a counter-offer, since such a tender would be materially inconsistent with the terms of the offer. If the landlord accepts this reduced tender, the terms agreed upon must be construed as those set forth in the counter-offer, a principle codified in CAL. CIV. PRO. § 2076:

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CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

The person to whom a tender is made must, at the time, specify any objection he may have to the money, instrument, or property, or he must be deemed to have waived it; and if the objection be to the amount of money, the terms of the instrument, or the amount or kind of property, he must specify the amount, terms, or kind which he requires, or be precluded from objecting afterwards.

See also Taylor v. Taylor, 39 Cal. App. 2d 518, 521 (Cal. Ct. App. 1940) ("It is now settled by these cases that where the tenant tenders, and the landlord accepts, as full payment of the rent, a less monthly rental than that reserved in the lease, he cannot later recover the unpaid balance of the rent reserved.")

While the above principle, a principle of estoppel, is properly subject to the Court's consideration of equities, such consideration would simply not change the fact that a reduced monthly rental payment cannot be considered acquiescence to a renewal of the original contractual terms. In the absence of such mutual agreement to be bound to the original terms, there simply cannot be contractual privity.

Finally, the Court notes that the operation of CAL. CIV. CODE § 1945 is to create a rebuttable presumption that the lease has been extended. Assuming, *arguendo*, that the bankruptcy and contract law issues noted above were not present, it appears probable that such a presumption would be rebutted in the instant case. The Court is not aware of any action taken by Debtor that would support a conclusion that Debtor intended to renew the lease on the original terms, and Berger Foundation has made repeated statements which would be incompatible with the presumption in § 1945. For instance, in the instant motion Berger Foundation made the following statements, which are implicitly and explicitly more compatible with a holdover tenancy than a month-to-month tenancy:

- "Since the filing of this case, the Debtor has continued, and continues, to occupy the Premises, yet has failed to pay the rental obligation due and owing." [Dkt. No 194, pg. 2 and 4]

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CONT... Visiting Nurse Association of the Inland Counties

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- "Based on the fact that the Debtor remained *as a holdover tenant*, and pursuant to the terms of the Lease, the rental obligation increases to approximately \$91,216.50 per month." [Dkt. No. 194, pg. 4 and 10] (emphasis added).

- "Here, the Debtor has made no payments while continuing to occupy the Premises." [Dkt. No. 194, pg. 6].

For the reasons outlined above, the Court concludes that the lease in question was expired as of the petition date because nothing in the record indicates that Berger Foundation provided consent to continued possession of the premises in the less than one-day period between the expiration of the lease and the instant bankruptcy filing. To the extent that Berger Foundation argues that postpetition acts retroactively revived the original lease terms, such retroactive revival would seem to be incompatible with *City v. Hart*, 175 Cal. App. 3d 92, 94 (Cal. Ct. App. 1985). Furthermore, because Debtor did not remotely act in accordance with the original lease terms, it cannot be said that Debtor actions constituted a renewal of those terms; if any lease was entered into postpetition, it must have been on substantially different terms, which would require notice and a hearing. Additionally, even if the statutory presumption of CAL. CIV. CODE § 1945 were applicable in the instant situation, the Court concludes that such presumption would likely be rebutted based on the fact that Debtor did not act in accordance with the original terms, and based on Berger Foundation's explicit characterization of Debtor as a holdover tenant.

II. 11 U.S.C. § 503

11 U.S.C. § 503(b)(1)(A) states:

(b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including –

(1)(A) the actual, necessary costs and expenses of preserving the estate including –

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"An administrative rent claim under this standard is value 'under an objective worth standard that measures the fair and reasonable value of the lease.'" *In re Pac.-Atl. Trading Co.*, 27 F.3d 401, 403 (9th Cir. 1994) (quoting *In re Dant & Russell, Inc.*, 853 F.2d 700, 707 (9th Cir. 1988)). "The rent reserved in the lease is presumptive evidence of fair and reasonable value, but the presumption may be rebutted by demonstrating that the reasonable worth of the lease differs from the contract rate." *In re Thompson*, 788 F.2d 560, 563 (9th Cir. 1986). "Where the debtor or trustee only uses a portion of the lease property, however, he must pay an administrative expense only for that portion of the property." *Id.* at 562. The Court continued the previous hearing for the parties to provide evidence and argument regarding the objective value of the portion of the leased property utilized by Debtor.

Debtor first, very briefly, argues that the parties have implicitly agreed to a rental rate of \$5,000 per month, and that that amount should be used in calculating Berger Foundation's administrative claim. Debtor appears to base this argument on the Court's tentative ruling for the hearing of December 18, 2018; specifically, Debtor refers to *Taylor v. Taylor*, 39 Cal. App. 2d 518, 521 (Cal. Ct. App. 1940). The Court rejects Debtor's approach. The relevant language in the Court's tentative ruling is used to illustrate that, in the context of a holdover tenancy, the original contractual terms do not necessarily control when the parties have acted in a manner which is materially inconsistent with those terms. Importantly, here, the \$5,000 payment discussed by Debtor is not necessarily a "rental" payment, but is more accurately characterized as an "adequate protection" payment. Adequate protection payments may be in amounts substantially different than the actual amount due – for instant, an adequate protection payment may be interest only, or may attempt to estimate the depreciation of the estate, in order to protect the secured creditor's interest. Furthermore, it would not be equitable to apply the estoppel principle codified in CAL. CIV. PRO. § 2076 in the context of bankruptcy, where the lender does have the ability to reject the payment and, without constraint, exercise its traditional state law rights.

Debtor's primary argument is that the contract rate of the lease is an "inappropriate measure" of the objective worth of the lease because Debtor did not use the entirety of the leased premises. Specifically, Debtor argues that it only utilized 4,000 square feet of the leased premises. Berger Foundation, on the other hand, makes two arguments in response: (1) that the entirety of the premises were necessary for Debtor to maintain its CMS license; and (2) that Debtor actually utilized the majority of the premises. In support of its argument, Debtor has provided declarations attesting that Debtor only

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used 4,000 square feet, and that, after moving into a smaller space, Debtor did not lose any funding, or, presumably, its license. Berger Foundation has provided a declaration which includes the vague statement that Debtor "continued to utilize the majority of the Premises."

The record provided to the Court is, unfortunately, unclear and incapable of providing the necessary evidentiary framework for a precise mathematical calculation. First, there is conflicting evidence regarding whether Debtor used only 4,000 square feet. Second, and more importantly, the evidence seems to suggest, but is still unclear, that the Debtor required all the space to maintain its license (or at least thought it had to). Debtor's response states the following: "Although it is true the Debtor was concerned it might lose funding if it lost its physical address in Palm Desert by hastily vacating the Premises, a belief that the Debtor needed a physical address for funding does not trump the Ninth Circuit requirement that the Debtor actually use the entirety of the Premises. In fact, Berger does not cite to any authority for this proposition." [Dkt. No. 323, pg. 10, lines 6-10].

On the record before it, the Court concludes Debtor has failed to demonstrate it did not use the entirety of the premises. More specifically, the Court concludes that there are a variety of ways that a space can be "used," and that that term is not limited to physical occupancy by the tenant. While, again, the record before the Court is less than clear, it appears that Debtor represented that it had control over, and occupancy of, the entirety of the premises for purposes of its licensing and funding. As a result, it appears Debtor continued to "use" the leased premises for some purposes, even if such use did not necessarily amount to physical use of the entirety of the premises for normal business operations. Because Debtor has not established that the use of the full premises was not reasonably necessary to preserve the estate, the Court rejects Debtor's attempt to reduce the space used to 4,000 square foot. As a result, the Court concludes that Debtor has not rebutted the presumption that the contract rate represents the reasonable value of the leased premises used.

TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of allowing Berger

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Foundation an administrative claim in the amount of \$172,543.53, less amounts received, and DENY the remainder of the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

Movant(s):

The H. N. and Frances C. Berger

Represented By
David B Golubchik

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6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#34.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 10/30/18, 11/13/18, 12/18/18

Also #33

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

#35.00 CONT First Omnibus Objection of Debtor-In-Possession Allied Injury Management, Inc. Seeking Disallowance of Certain Proofs of Claim
(Holding Date)

From: 11/8/16, 12/6/16, 1/10/17, 3/7/17,4/4/17, 4/25/17, 6/27/17, 7/11/17, 9/12/17, 11/14/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18

Also #36

EH__

Docket 83

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Movant(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

#36.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 6/7/16, 8/30/16, 9/14/16, 10/20/16, 10/25/16, 12/6/16, 1/10/17, 2/28/17, 3/28/17, 5/30/17, 8/29/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18

Also #35

EH__

Docket 7

***** VACATED *** REASON: CONTINUED TO 4/10/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:16-01279 Allied Injury Management, Inc. v. One Stop Multi-Specialty Medical Group

#37.00 CONT Status Conference RE: [1] Adversary case 6:16-ap-01279. Complaint by Allied Injury Management, Inc. against One Stop Multi-Specialty Medical Group & Therapy, Inc., One Stop Multi-Specialty Medical Group, Inc., Nor Cal Pain Management Medical Group, Inc.. (Charge To Estate). Complaint for (1) Breach of Contract; (2) Account Stated; and (3) Unjust Enrichment Nature of Suit: (14 (Recovery of money/property - other))

From: 1/24/17, 3/7/17, 4/25/17, 6/27/17, 7/11/17, 9/12/17, 11/14/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/10/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

One Stop Multi-Specialty Medical

Represented By
Maria K Pum
Maria C Armenta

One Stop Multi-Specialty Medical

Represented By
Maria K Pum
Maria C Armenta

Nor Cal Pain Management Medical

Represented By
Maria K Pum
Maria C Armenta

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CONT... Allied Injury Management, Inc.

Chapter 11

Plaintiff(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:16-01225 Cambridge Medical Funding Group II, LLC v. Allied Injury Management,

#38.00 CONT Status Conference Re: Complaint by Cambridge Medical Funding Group II, LLC against Allied Injury Management, Inc., John C. Larson. 02 - Other e.g. other actions that would have been brought in state court if unrelated to bankruptcy

HOLDING DATE

From: 11/1/16, 12/6/16, 1/31/17, 2/28/17, 3/28/17, 5/30/17, 8/29/17, 10/3/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/10/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

John C. Larson

Pro Se

Plaintiff(s):

Cambridge Medical Funding Group

Represented By
Kenneth Hennesay

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian

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CONT... Allied Injury Management, Inc.

Chapter 11

Jason Balitzer
Victor A Sahn
Steven Werth

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2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#39.00 CONT Disclosure Statement Describing Debtors Chapter 11 Plan

From: 1/29/19

EH__

Docket 87

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

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6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#40.00 Motion for approval of chapter 11 disclosure statement for Debtor's Chapter 11 Reorganization Plan

Also #41

EH__

Docket 155

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

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6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#41.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 11/27/18, 12/19/18, 12/20/18, 1/15/19

Also #40

EH__

Docket 5

Tentative Ruling:

12/19/2018

All parties have authorization to appear telephonically for the 12/19/2018 Status Conference.

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

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11:00 AM

6:14-16813 M. A. Tabor

Chapter 7

Adv#: 6:16-01128 Frealy v. Trotochau et al

#1.00 CONT Application and Order for Appearance and Examination

From: 12/5/18, 12/11/18, 12/20/18

EH ____

Docket 53

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

M. A. Tabor

Represented By
Judith Runyon

Defendant(s):

Robin Sherrie Trotochau

Pro Se

Pacific Mortgage Exchange, Inc.

Represented By
Leib M Lerner

Movant(s):

Todd A. Frealy

Represented By
Anthony A Friedman
Lindsey L Smith

Plaintiff(s):

Todd A. Frealy

Represented By
Anthony A Friedman
Lindsey L Smith

Trustee(s):

Todd A. Frealy (TR)

Represented By

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CONT... M. A. Tabor

Anthony A Friedman
Lindsey L Smith

Chapter 7

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Hearing Room 303

11:00 AM

6:17-12858 Scott Leigh Baumann and Holly Lynn Baumann

Chapter 7

#2.00 CONT Notice of Trustee's Final Report and Applications for Compensation

From: 1/30/19

EH__

Docket 52

Tentative Ruling:

02/27/2019

In his declaration filed in support of the Trustee's Final Report and in support of the Application for Compensation of Levene, Neale, Bender, Yoo & Brill LLP ("LNBYB"), the Trustee indicates that he enlisted the assistance of LNBYB for investigation and administration of assets. In connection with their assistance, LNBYB filed an adversary complaint (the "Adversary") against Michael and Linda Rizzo to avoid and recover transfer of certain real property located in Carlsbad, CA (the "Kalpati Property"). The Trustee asserts that documents provided by the Defendants during the discovery period supported the Defendants' assertions that there was consideration on account of the transfer. The Trustee dismissed the Adversary on May 15, 2018.

On October 12, 2018, subsequent to LNBYB's filing of its Fee Application, the Debtors filed objection to LNBYB's fees. The Debtors assert in their Objection that had LNBYB conducted initial investigation of the claims underlying the Adversary, there would not have been a need to prepare and file the Adversary complaint. Debtors request that LNBYB's fees be reduced by \$9,525 (the amounts expended in connection with the Adversary).

As to the Debtors' assertion that there was insufficient initial investigation done by

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CONT... Scott Leigh Baumann and Holly Lynn Baumann

Chapter 7

LNBYB prior to preparing the Adversary, LNBYB responds that it had sufficient information to believe the transfer was voidable prior to preparation of the Adversary because the Debtors had been threatened with suit around the same time of the transfer at issue, and importantly, because "the Debtors received less than reasonably equivalent consideration for the Transfer as the Grant Deed evidencing the Transfer stated on its face: 'This is a bonafide gift and the grantor received nothing in return, R&T 11911.'" (Reply at 3). Additionally, the Court notes that Page 18 of the Fee Application indicates that "analysis of the transfer deeds re RP" occurred prior to the preparation of the actual complaint, and finally, the Trustee asserts that it took the Rizzo defendants over six months to provide a complete explanation concerning the transfer. (Pagay Decl. ¶6). In sum, the evidence supports a conclusion that LNBYB took reasonable steps to ensure that the value of the Kalpati Property was preserved for the benefit of creditors in the event that the transfer turned out to be avoidable.

The Court is inclined to find that Debtors' Opposition provides insufficient factual analysis to justify the requested reduction in LNBYB's fees. As indicated above and for the reasons stated in LNBYB's reply, the Court is inclined to overrule Debtors' objections.

The applications for compensation of Counsel for the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the Application of the associated professional, the following administrative claims will be allowed:

Trustee Fees:	\$ 5,100
Trustee Expenses:	\$ 298.51
Attorney Fees:	\$15,075
Attorney Costs:	\$1,020.80

APPEARANCES REQUIRED.

Party Information

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CONT... Scott Leigh Baumann and Holly Lynn Baumann

Chapter 7

Debtor(s):

Scott Leigh Baumann

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Holly Lynn Baumann

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

John P Pringle (TR)

Represented By
Todd A Frealy
Carmela Pagay

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Wednesday, February 27, 2019

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11:00 AM

6:17-17749 Joshua Cord Richardson

Chapter 7

#3.00 Objection to Debtor's Claimed Homestead Exemption

EH__

Docket 72

Tentative Ruling:

02/27/2019

BACKGROUND

On September 15, 2017, an involuntary petition was filed by Creditor Cleo Sonnenfeld ("Petitioner") as to Joshua Cord Richardson ("Debtor"). By stipulation of the parties, the Order for relief was entered on November 8, 2017. Todd Frealy is the duly appointed chapter 7 trustee ("Trustee").

The filing was precipitated by a dispute between Debtor and Petitioner related to Petitioner's loaning Debtor \$225,000 between April and July 2012 (the "Loan"). The money was loaned to permit Debtor to purchase real property located at 13710 Oakley Dr. in Moreno Valley, California ("Property"). Debtor allegedly promised Petitioner (who is Debtor's elderly uncle), a first priority lien on the Property to secure the Loan. Debtor allegedly never provided the Deed of Trust and subsequently defaulted on the Loan. Debtor subsequently also borrowed \$65,000 from Val-Chris Investments, Inc. which loan was secured by a deed of trust; and \$200,000 from the Samir and Mona Sanghani Living Trust 2014 which loan was secured by a deed of trust against the Property. The Petitioner filed an action against the Debtor in state court on January 11, 2017, which he removed to the bankruptcy court following the entry of the order for relief (the "Removed Action"). The Trustee subsequently settled the claims against the Debtor's estate via FRBP 9019. As part of the settlement, judgment was entered against the Debtor in the Removed Action and the Petitioner agreed to object to the exemption of the Debtor in the Property.

On February 6, 2019, Petitioner filed his objection to the Debtor's claimed homestead exemption (the "Objection"). No opposition was filed by the Debtor. The Trustee filed a notice of joinder on February 21, 2019.

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CONT... Joshua Cord Richardson

Chapter 7

TENTATIVE RULING

The Petitioner's arguments that the constructive trust should supersede the Debtor's rights to a homestead exemption are persuasive. However, the petition date was in 2017 and Petitioner is filing an objection to the homestead exemption in 2019. The Objection does not squarely address the interaction of state law regarding the effect of a constructive trust with FRBP 4003(b) which requires that written objection to a claim of exemption be filed by an interested party within 30 days after the meeting of creditors is concluded. Here, there appears to have been no amendment to schedule C since that schedule was originally filed with the Court in 2017. As such, the deadline for filing this Objection appears to have lapsed.

The Court is inclined to continue the hearing to permit the Petitioner to address the FRBP 4003(b) deadline issue.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

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11:00 AM

6:17-18300 Deborah Stevenson

Chapter 7

#4.00 CONT Motion to Avoid Judicial Lien with County of San Bernardino

From: 1/30/19

EH__

Docket 57

Tentative Ruling:

02/27/2019

Service: Proper

Opposition: None

The Debtor's motion was set for hearing because it appeared that the County of San Bernardino's judgment lien might have stemmed from the Western Riverside Council of Governments assessment. The Debtor has now provided evidence that the County's judgment lien is unrelated to the WRCOG assessment (which is an unavoidable statutory lien). Instead, the County's lien is based on a state court complaint for recovery of monies owed to the County by virtue of its provision of emergency services to the Debtor. Based on the Motion and supplemental pleadings, the Court is inclined to GRANT the Motion in accordance with the Debtor's attachment to her 522f Motion. The secured claim of the County shall be limited to \$4,479.79. The County's lien is avoided as to any amount in excess of \$4,479.79. The remainder of the County's lien shall be treated as a nonpriority unsecured claim to be paid pro rata with other nonpriority unsecured claims.

APPEARANCES WAIVED. Movant to lodge an order within 7 days.

Party Information

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11:00 AM

CONT... Deborah Stevenson

Chapter 7

Debtor(s):

Deborah Stevenson

Represented By
Edward T Weber

Movant(s):

Deborah Stevenson

Represented By
Edward T Weber

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-12167 Troy Lee and Victoria Aurora Lee

Chapter 7

#5.00 Motion to Avoid Judicial Lien with Canyon Lake Property Owners Association re Superior Court Of Riverside County - Southwest Justice Center Docket Number SWS1402022

Also #6

EH__

Docket 29

Tentative Ruling:

02/27/2019

Service: Proper

Opposition: None

The Court has reviewed the authorities cited by the Debtor and agrees that under California law, the statutory lien of the Western Riverside Council of Governments constitutes a first priority lien on the Property regardless of the date of its recording. As such, when adding together the liens of the WRCOG and Pennymac, plus the Debtor's claimed exemption, the calculation under § 522(f) yields an amount in excess of the Property's fair market value. Thus, there is no equity for the liens of the HOA to attach to and these liens are avoidable.

Based on the foregoing, the Court is inclined to GRANT the motions. The HOA's liens are avoided as impairing fully the Debtors' claimed exemption.

APPEARANCES WAIVED. Movant to lodge an order within 7 days.

Party Information

Debtor(s):

Troy Lee

Represented By

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CONT... Troy Lee and Victoria Aurora Lee

Chapter 7

Arnold H. Wuhrman

Joint Debtor(s):

Victoria Aurora Lee

Represented By
Arnold H. Wuhrman

Movant(s):

Troy Lee

Represented By
Arnold H. Wuhrman

Victoria Aurora Lee

Represented By
Arnold H. Wuhrman

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

11:00 AM

6:18-12167 Troy Lee and Victoria Aurora Lee

Chapter 7

#6.00 Motion to Avoid Judicial Lien with Canyon Lake Property Owners Association re Superior Court Of Riverside County - Riverside Historic Courthouse Docket Number RIC1510388

Also #5

EH__

Docket 30

Tentative Ruling:

02/27/2019

Service: Proper

Opposition: None

The Court has reviewed the authorities cited by the Debtor and agrees that under California law, the statutory lien of the Western Riverside Council of Governments constitutes a first priority lien on the Property regardless of the date of its recording. As such, when adding together the liens of the WRCOG and Pennymac, plus the Debtor's claimed exemption, the calculation under § 522(f) yields an amount in excess of the Property's fair market value. Thus, there is no equity for the liens of the HOA to attach to and these liens are avoidable.

Based on the foregoing, the Court is inclined to GRANT the motions. The HOA's liens are avoided as impairing fully the Debtors' claimed exemption.

APPEARANCES WAIVED. Movant to lodge an order within 7 days.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

11:00 AM

CONT... Troy Lee and Victoria Aurora Lee

Chapter 7

Debtor(s):

Troy Lee

Represented By
Arnold H. Wuhrman

Joint Debtor(s):

Victoria Aurora Lee

Represented By
Arnold H. Wuhrman

Movant(s):

Troy Lee

Represented By
Arnold H. Wuhrman

Victoria Aurora Lee

Represented By
Arnold H. Wuhrman

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

11:00 AM

6:17-19647 Sean Karadas

Chapter 7

#7.00 Order To Show Cause Why Debtor Should Not Be Held In Contempt For Failure To Comply With The Court's Order For Turnover Of Property Of The Estate

EH__

Docket 62

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sean Karadas

Represented By
Todd L Turoci

Trustee(s):

Charles W Daff (TR)

Represented By
Robert P Goe
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

11:00 AM

6:16-19947 Melissa Lynn Dixson

Chapter 7

#8.00 CONT Show Cause Hearing RE: [13] Motion For Contempt Violation Discharge Order

From: 1/9/19

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melissa Lynn Dixson

Represented By
Bryant C MacDonald

Movant(s):

Melissa Lynn Dixson

Represented By
Bryant C MacDonald

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

11:00 AM

6:14-17350 Dean L. Springer, Sr. and Tami Jo Springer

Chapter 7

#9.00 Request for Assignment to Mediation Program Motion for Order Referring Contested Matter to Mediation Pursuant to Third Amended General Order No. 95-1 and 11 U.S.C. § 105

Also #10

EH__

Docket 198

***** VACATED *** REASON: ORDER ENTERED 2/20/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dean L. Springer Sr.	Pro Se
----------------------	--------

Joint Debtor(s):

Tami Jo Springer	Pro Se
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Movant(s):

Hilder & Associates	Represented By Lei Lei Wang Ekvall Timothy W Evanston
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Trustee(s):

Larry D Simons (TR)	Represented By Richard A Marshack Sarah Cate Hays D Edward Hays Laila Masud
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

11:00 AM

6:14-17350 Dean L. Springer, Sr. and Tami Jo Springer

Chapter 7

#10.00 CONT Motion for Order Requiring Disgorgement of Funds from Hilder & Associates

From: 1/30/19

Also #9

EH__

Docket 192

***** VACATED *** REASON: CONTINUED TO 4/17/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dean L. Springer Sr.

Pro Se

Joint Debtor(s):

Tami Jo Springer

Pro Se

Movant(s):

Larry D Simons (TR)

Represented By
Richard A Marshack
Sarah Cate Hays
D Edward Hays
Laila Masud

Trustee(s):

Larry D Simons (TR)

Represented By
Richard A Marshack
Sarah Cate Hays
D Edward Hays
Laila Masud

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

11:00 AM

6:15-21418 James Lloyd Walker

Chapter 7

#11.00 CONT Order To Show Cause Why The Debtor Should Not Be Held In Contempt
Of The Court's Turnover Order

From: 2/7/19

EH__

Docket 138

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth

Trustee(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#12.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report re **Another Meridian Company LLC**

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18

Also #13 & #14

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#13.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report re **ASR Constructors Inc**

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18

Also #12 & #14

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#14.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report re **Inland Machinery, Inc**

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18

Also #12 & #13

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#15.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01286. Complaint by ASR Constructors Inc a California Corporation, Another Meridian Company, LLC, Inland Machinery, Inc. against Gotte Electric, Inc., Insurance Company Of The West, Employment Development Department, Trico-Savi Business Park, L.P., a California limited partnership, Angela Denise McKnight, Steven Schonder, Western Alliance Bank, an Arizona corporation, United states of america, Carlin Law Group APC, Ledcor Construction, Inc., a Washington corporation, DOES 1 through 10, inclusive. (Charge To Estate - \$350.00). Complaint in Interpleader Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Bastian, James)
Trico-Savi Business Park L.P. - Dismissed 12/28/17
Western Alliance Bank, dba Torrey Pines Bank - Dismissed 2/1/18
Gotte Electric, Inc - Dismissed 3/14/18
Ledcor Construction Inc - Dismissed 3/26/18

From: 2/27/18, 10/9/18, 10/16/18, 12/19/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

CONT... ASR Constructors Inc a California Corporation Chapter 11

David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

United states of america

Represented By
Charles Parker
Najah J Shariff

Carlin Law Group APC

Represented By
Kevin R Carlin

DOES 1 through 10, inclusive

Pro Se

Plaintiff(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat
Adv#: 6:15-01303 Cisneros v. AMERICAN EXPRESS

Chapter 7

#16.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01303. Complaint by A. Cisneros against AMERICAN EXPRESS. (Charge To Estate \$350). For Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))

From: 12/30/15, 1/13/16, 3/23/16, 5/25/16, 6/29/16, 8/31/16, 11/2/16, 2/1/17, 5/3/17 9/13/17, 12/13/17, 2/14/18, 5/16/18, 6/11/18, 8/22/18, 11/28/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/29/19 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

AMERICAN EXPRESS

Represented By
Robert S Lampl
Chad V Haes

Plaintiff(s):

A. Cisneros

Represented By
D Edward Hays
Chad V Haes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

CONT... Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Adv#: 6:15-01308 Cisneros v. BWI CONSULTING, LLC et al

#17.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01308. Complaint by A. Cisneros against BWI CONSULTING, LLC, Black and White, Inc., BLACK AND WHITE BILLING COMPANY, BLACK AND WHITE INK, MEHRAN DEVELOPMENT CORPORATION. (Charge To Estate \$350). for Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other))

From: 1/13/16, 3/23/16, 5/25/16, 7/27/16, 8/31/16, 11/2/16, 2/1/17, 5/3/17, 9/13/17, 12/13/17, 2/14/18, 5/16/18, 6/11/18, 8/22/18, 11/28/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/29/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

BWI CONSULTING, LLC	Pro Se
Black and White, Inc.	Pro Se
BLACK AND WHITE BILLING	Pro Se
BLACK AND WHITE INK	Pro Se
MEHRAN DEVELOPMENT	Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

CONT... Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Plaintiff(s):

A. Cisneros

Represented By
D Edward Hays
Chad V Haes

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01163 Revere Financial Corporation v. Burns

#18.00 CONT Motion for Protective Order

From: 12/14/18, 1/30/19

Also #19

EH__

Docket 117

Tentative Ruling:

02/27/2019

BACKGROUND

On June 23, 2016, Liquidating Trustee Revere Financial Corporation ("Revere" or "Plaintiff") filed the instant adversary proceeding against non-debtor Don Cameron Burns ("Defendant" or "Burns"). Revere's complaint asserts generally that the Defendant was an insider of Douglas Jay Roger (the "Debtor"), that Defendant and Debtor were engaged in a scheme to hinder, delay and defraud the Debtor's creditors, by making transfers of Debtor's assets to Debtor-related entities, including to Defendant, for the purpose of avoiding those assets becoming subject to either the prepetition Receivership or to the Debtor's chapter 7 filing. Among the claims alleged by Revere are claims of intentional fraudulent transfers, constructive fraudulent transfers, preferential transfers, and unauthorized postpetition transfers of the Debtor's prepetition assets.

On November 7, 2018, the University Orthopaedic Group, Liberty Orthopedic Corporation, and OIC Medical Corporation (collectively, "Movants") filed a Motion for Protective Order. On the same date, the Debtor and interested party, Nicole Ebarb filed a Motion for Protective Order. Both the OIC and Debtor/Ebarb Motions were denied on standing grounds under FRCP 45. To cure this defect, OIC and Debtor/Ebarb had Don Burns file the instant Motion for Protective Order on February 13, 2018 ("Motion"). Revere filed opposition to the Motion on January 16, 2019

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

CONT... Douglas Jay Roger

Chapter 7

("Opposition"). Burns filed no reply to the Opposition.

DISCUSSION

Rule 26(c)

Burns in his Motion asserts that unlike the OIC and Debtor/Ebarb Motions, the instant Motion is brought under FRCP 26. FRCP(c) provides, in pertinent part, that

A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending -- or as an alternative on matters relating to a deposition, in the court for the district where the deposition will be taken. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action. The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense

Fed. R. Civ. P. 26.

Revere opposes the Motion partially on the grounds that Burns has no standing. Chief among Revere's arguments is that Burns does not assert any personal interest in the subpoenaed materials. In support of this contention, Revere has expanded upon the cases cited by Burns to demonstrate that even under Rule 26(c), the party seeking a protective order as to a third-party subpoena must demonstrate a person interest that may be harmed if a protective order does not issue. Specifically, in *In re REMEC, Inc. Sec. Litig.*, the District Court held that '[a] party can move for a protective order in regard to a subpoena issued to a non-party **if it believes its own interests are jeopardized by discovery sought from a third party** and has standing under Rule 26(c) to seek a protective order regarding subpoenas issued to non-parties which seek irrelevant information. No. CIV 04CV1948 JLS AJB, 2008 WL 2282647, at *1 (S.D. Cal. May 30, 2008)(emphasis added). Similarly, the District Court for the District of Columbia found that '[a] party generally lacks standing to challenge a subpoena issued to a third party absent a claim of privilege, proprietary interest, or personal interest in the subpoenaed matter... A motion to quash, or for a protective order, should generally be made by the person from whom the documents or things are requested.' *Washington v. Thurgood Marshall Acad.*, 230 F.R.D. 18, 21 (D.D.C.),

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

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2:00 PM

CONT... **Douglas Jay Roger**

Chapter 7

on reconsideration, 232 F.R.D. 6 (D.D.C. 2005)(internal citations omitted).

As to these citations which Burns initially proffered, Revere is correct. Burns has not asserted any personal interest implicated by the subpoenaed materials. Indeed, the Motion itself is not even supported by so much as a declaration.

TENTATIVE RULING

Based on the foregoing, and for the other reasons stated in Revere's Opposition, the Court is inclined to DENY the Motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Defendant(s):

Don Cameron Burns

Represented By
Don C Burns

Movant(s):

Don Cameron Burns

Represented By
Don C Burns
Don C Burns
Don C Burns
Don C Burns
Don C Burns
Don C Burns

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

CONT... Douglas Jay Roger

Chapter 7

Don C Burns
Don C Burns
Don C Burns

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01163 Revere Financial Corporation v. Burns

#19.00 CONT Status Conference RE: [1] Adversary case 6:16-ap-01163. Complaint by Revere Financial Corporation against Don C. Burns. (12 (Recovery of money/property - 547 preference)),(11 (Recovery of money/property - 542 turnover of property)),(14 (Recovery of money/property - other)),(91 (Declaratory judgment))

From: 8/31/16, 11/2/16, 1/11/17, 3/8/17, 6/7/17, 8/2/17, 8/23/17, 11/8/17, 1/31/18, 4/25/18

Also #18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/12/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Defendant(s):

Don Cameron Burns

Represented By
Don C Burns

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

CONT...

Douglas Jay Roger

Carmela Pagay
Franklin R Fraley Jr

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#20.00 CONT Status Conference RE: [40] Amended Complaint (Second) by Franklin R Fraley Jr on behalf of Revere Financial Corporation against Bank of Southern California, N.A.. (Fraley, Franklin)

From: 7/11/18, 8/22/18

EH__

Docket 40

***** VACATED *** REASON: CONTINUED TO 6/12/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01114 David M. Goodrich, Chapter 11 Trustee v. The Blue Law Group, Inc, a

#21.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01114. Complaint by David M. Goodrich, Chapter 11 Trustee against The Blue Law Group, Inc, a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Werth, Steven)

From: 7/10/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

The Blue Law Group, Inc, a

Represented By
Michael K Blue

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth
Mark S Horoupian

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, February 27, 2019

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2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:17-10724 Bausman and Company Incorporated

Chapter 7

Adv#: 6:18-01180 Whitmore v. Sierra Forest Products, Inc. dba Atlas Lumber

#22.00 CONT Status Conference Re: Adversary Complaint by Robert S. Whitmore against Sierra Forest Products, Inc. dba Atlas Lumber. (Charge To Estate \$350.00). Nature of Suit: 12 - Recovery of money/property - 547 preference, 91 - Declaratory judgment

From: 11/14/18, 1/30/19

EH__

Docket 1

***** VACATED *** REASON: NOTICE OF DISMISSAL FILED 1/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bausman and Company Incorporated

Represented By
William A Smelko

Defendant(s):

Sierra Forest Products, Inc. dba Atlas

Pro Se

Plaintiff(s):

Robert S. Whitmore

Represented By
Caroline Djang

Trustee(s):

Robert Whitmore (TR)

Represented By
Best Best & Krieger
Caroline Djang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:17-13853 Malik Muhammad Asif

Chapter 7

Adv#: 6:17-01197 Itria Ventures, LLC v. Asif et al

#23.00 CONT Status Conference Re: Adversary case 6:17-ap-01197. Complaint by Itria Ventures, LLC against Malik Muhammad Asif, Zobia Asif. Fee Amount \$350
Complaint Objecting To Dischargeability of Debt Nature of Suit: (62
(Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud))

From: 11/15/17, 12/6/17, 1/10/18, 6/6/18, 10/3/18, 11/7/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malik Muhammad Asif

Represented By
Todd L Turoci

Defendant(s):

Malik Muhammad Asif

Represented By
David T Egli

Zobia Asif

Represented By
David T Egli

Joint Debtor(s):

Zobia Asif

Represented By
Todd L Turoci

Plaintiff(s):

Itria Ventures, LLC

Represented By
Michael F Chekian

**United States Bankruptcy Court
Central District of California
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Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

CONT... Malik Muhammad Asif

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Represented By
Thomas H Casey

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:17-17749 Joshua Cord Richardson

Chapter 7

Adv#: 6:18-01146 Sonnenfeld v. Richardson

#24.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01146. Complaint by Cleo Sonnenfeld against Joshua Cord Richardson. (A)(4), and (A)(6); and to Deny Discharge Pursuant to 11 U.S.C. Sections 727(A)(3), and (A)(5) (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (62 (Dischargeability - 523(a)(2), 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)),(66 (Dischargeability - 523(a)(1),(14),(14A) priority tax claims)) (Masud, Laila)

From: 8/29/18, 1/30/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Defendant(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Plaintiff(s):

Cleo Sonnenfeld

Represented By
D Edward Hays
Laila Masud

Trustee(s):

Todd A. Frealy (TR)

Represented By

**United States Bankruptcy Court
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CONT...

Joshua Cord Richardson

Anthony A Friedman

Chapter 7

**United States Bankruptcy Court
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Wednesday, February 27, 2019

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6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01057 Whitson et al v. Bastorous

#25.00 CONT Status Conference RE: Adversary case 6:18-ap-01057. Complaint by Blaine Whitson, Susan Whitson, Union Home Loan Profit Sharing Plan, Gurpaljit Deoll, Benny Winefeld, RM Holdings, LLC against Mark Bastorous. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury))

From: 5/9/18, 8/22/18, 10/31/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

Blaine Whitson

Represented By
Benjamin Taylor

Susan Whitson

Represented By
Benjamin Taylor

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CONT...

Mark Bastorous

Chapter 7

Union Home Loan Profit Sharing

Represented By
Benjamin Taylor

Gurpaljit Deoll

Represented By
Benjamin Taylor

Benny Winefeld

Represented By
Benjamin Taylor

RM Holdings, LLC

Represented By
Benjamin Taylor

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
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6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01063 Chen et al v. Bastorous et al

#26.00 CONT Status Conference re Amended Complaint by Douglas L Mahaffey on behalf of Chienan Chen, Chun-Wu Li against Bernadette Shenouda, 3 Columnar Ladera LLC, Mike Bareh, Mark Bastorous, MB Capital Group LLC. **(Dismissed as to Bernadette Shenouda 1/2/19)**

From: 5/9/18, 6/6/18, 8/22/18, 10/31/18

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

3 Columnar Ladera LLC

Pro Se

Mike Bareh

Represented By
Mirco J Haag
Jason E Goldstein

MB Capital Group LLC

Pro Se

Bernadette Shenouda

Represented By
Thomas F Nowland

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CONT... Mark Bastorous

Chapter 7

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

Chienan Chen

Represented By
Douglas L Mahaffey

Chun-Wu Li

Represented By
Douglas L Mahaffey

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

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6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01064 Gerges et al v. Bastorous et al

#27.00 CONT Status Conference Re: Adversary case 6:18-ap-01064. Complaint by Mona Gerges, Rafet Gerges, St. Mary Properties, LLC against Mark Bastorous, Bernadette Shenouda. 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

From: 5/9/18, 5/16/18, 7/11/18, 8/22/18, 10/31/18, 11/14/18, 1/30/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

Mona Gerges

Represented By
Louis J Esbin

**United States Bankruptcy Court
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CONT... Mark Bastorous

Chapter 7

Rafat Gerges

Represented By
Louis J Esbin

St. Mary Properties, LLC

Represented By
Louis J Esbin

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

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6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01174 Pringle Ch 7 Trustee v. Shenouda et al

#28.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01174. Complaint by John P Pringle Ch 7 Trustee against Violete Shenouda, Anwar Wagdy. (Charge To Estate - \$350.00). Complaint: (1) To Avoid and Recover Fraudulent Transfers Pursuant to 11 U.S.C. Sections 548(a)(1)(A) and 550; (2) To Avoid and Recover Fraudulent Transfers Pursuant to 11 U.S.C. Sections 548(a)(1)(B) and 550; (3) To Avoid Transfer Pursuant to 11 U.S.C. Section 544(a)(3); (4) To Preserve Transfers Pursuant to 11 U.S.C. Section 551; (5) For Declaratory Relief; (6) For Imposition of Resulting Trust; (7) For Imposition of Constructive Trust; and (8) For Attorneys' Fees and Costs Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(72 (Injunctive relief - other)),(91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Goodrich, David)

From: 10/31/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Violete Shenouda

Represented By
John J Lewis

Anwar Wagdy

Represented By
John J Lewis

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CONT... Mark Bastorous

Chapter 7

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

John P Pringle Ch 7 Trustee

Represented By
David M Goodrich
Reem J Bello

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

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6:17-19010 Sara Durham

Chapter 7

Adv#: 6:18-01020 SCE Federal Credit Union v. Durham

#29.00 CONT Motion for Default Judgment

From: 1/30/19

Also #30

EH__

Docket 39

Tentative Ruling:

02/27/2019

On October 30, 2017, Sara Durham ("Debtor") filed a Chapter 7 voluntary petition. On January 8, 2018, SCE Federal Credit Union ("Plaintiff") filed a non-dischargeability complaint against Debtor. On February 8, 2018, Debtor filed her answer to the complaint.

On January 8, 2018, SCE Federal Credit Union filed a complaint asserting claims under §§ 523(a)(1), (a)(2), and (a)(14) against Sarah Durham (the "Complaint"). On May 2, 2018, Plaintiff filed a motion to compel Debtor to respond to discovery. The Court granted the motion pursuant to an order entered June 6, 2018 (the "Production Order"). The Production Order further required Debtor to pay \$1,013.50 to Plaintiff if she failed to produce documents. On September 26, 2018, Plaintiff filed a motion to strike the answer of Debtor and for entry of default. On October 29, 2018, the Court granted Plaintiff's Motion and issued an order striking the Debtor's Answer. The Clerk of Court then entered default on October 31, 2018, on request of Plaintiff.

On November 30, 2018, the Plaintiff filed its Motion for Default Judgment (the "Motion"). The initially set hearing was continued as a result of the federal government shutdown. On February 12, 2019, the Debtor filed a response to the Motion. The Debtor asserts, in pertinent part, that she has been receiving mental health treatment for depression, anxiety and stress since September 2017; that she relapsed into use of drugs and alcohol which resulted in her failure to respond to requests from Plaintiff and failure to attend hearings. Debtor further asserts that she

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CONT...

Sara Durham

Chapter 7

has been in an inpatient treatment facility and was set to exit the facility on February 14, 2019. The Debtor requests additional time but does not specify what actions she will undertake to remedy the deficiencies that resulted in the striking of her Answer. The Debtor's response is also not filed under penalty of perjury and attaches no evidence to corroborate the Debtor's assertions.

DISCUSSION

The Court shall not rule on the Motion at this juncture. This Court requires a Memorandum of Points and Authorities in support of any request for entry of default judgment. In particular, where as here, the Plaintiff presumably seeks judgment on the three asserted claims in the Complaint it is insufficient to submit evidence to the Court with no analysis of how the evidence supports entry of judgment on all three claims. The Plaintiff provides no case authority and no analysis of the burdens and elements correspondent to each of the claims in the Complaint.

TENTATIVE RULING

Based on the foregoing, the Court is inclined to CONTINUE the hearing on the Motion for Plaintiff to supplement the Motion with Points and Authorities. Plaintiff to provide the Court with an estimate of time for when the pleadings can be filed.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sara Durham

Represented By
Edgar P Lombera

Defendant(s):

Sara Durham

Pro Se

Movant(s):

SCE Federal Credit Union

Represented By
Bruce P. Needleman

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CONT... Sara Durham

Chapter 7

Plaintiff(s):

SCE Federal Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:17-19010 Sara Durham

Chapter 7

Adv#: 6:18-01020 SCE Federal Credit Union v. Durham

#30.00 CONT Status Conference Re: Complaint by SCE Federal Credit Union against Sara Durham. (14),(14A) priority tax claims)), 62 - Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud

From: 3/21/18, 6/27/18, 8/22/18, 10/24/18, 1/30/19

Also #29

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sara Durham

Represented By
Edgar P Lombera

Defendant(s):

Sara Durham

Pro Se

Plaintiff(s):

SCE Federal Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01100 Zamucen & Curren LLP v. Johnson

#31.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01100. Complaint by Zamucen & Curren LLP against Vance Zachary Johnson . (d),(e))

From: 7/31/18, 10/3/18, 1/9/19, 1/30/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/19/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Zamucen & Curren LLP

Represented By
Patricia J Grace

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

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6:13-29922 Nancy Ann Howell

Chapter 7

Adv#: 6:14-01070 Law Office of Andrew S. Bisom et al v. Howell

#32.00 CONT Motion For Summary Judgment
(Holding Date)

From: 12/2/15, 2/17/16, 3/2/16, 3/16/16, 4/27/16, 9/21/16, 12/14/16, 6/21/17,
1/24/18, 1/31/18, 5/30/18, 10/10/18

Also #33

EH__

Docket 62

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nancy Ann Howell Pro Se

Defendant(s):

Nancy Ann Howell Pro Se

Movant(s):

Law Office of Andrew S. Bisom Represented By
Andrew S Bisom

Plaintiff(s):

Law Office of Andrew S. Bisom Represented By
Andrew S Bisom

Eisenberg Law Firm, APC Represented By
Andrew S Bisom

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CONT... Nancy Ann Howell

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

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6:13-29922 Nancy Ann Howell

Chapter 7

Adv#: 6:14-01070 Law Office of Andrew S. Bisom et al v. Howell

#33.00 CONT Status Conference RE: [1] Adversary case 6:14-ap-01070. Complaint by Law Office of Andrew S. Bisom, Eisenberg Law Firm, APC against Nancy Ann Howell. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury))

From: 5/14/14, 7/2/14, 12/10/14, 3/18/15, 4/22/15, 5/20/15, 7/22/15, 10/28/15, 12/2/15, 2/17/16, 3/2/16, 3/16/16, 4/27/16, 9/21/16, 12/14/16, 6/21/17, 1/24/18, 1/31/18, 5/30/18, 10/10/18

Also #32

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nancy Ann Howell Pro Se

Defendant(s):

Nancy Ann Howell Pro Se

Plaintiff(s):

Law Office of Andrew S. Bisom Represented By
Andrew S Bisom

Eisenberg Law Firm, APC Represented By
Andrew S Bisom

Trustee(s):

Steven M Speier (TR) Pro Se

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CONT... Nancy Ann Howell

Chapter 7

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6:13-30625 John Martin Mata

Chapter 7

Adv#: 6:18-01089 Mata et al v. National Collegiate Student Loan Trust 2006-1 et a

#34.00 Motion For Summary Judgment

Also #35

EH__

Docket 33

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Martin Mata

Represented By
Michael E Clark

Defendant(s):

National Collegiate Student Loan

Represented By
Damian P Richard

NATIONAL COLLEGIATE

Represented By
Damian P Richard

National Collegiate Student Loan

Represented By
Damian P Richard

Joint Debtor(s):

Livier Mata

Represented By
Michael E Clark

Movant(s):

National Collegiate Student Loan

Represented By
Damian P Richard

NATIONAL COLLEGIATE

Represented By

**United States Bankruptcy Court
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CONT...

John Martin Mata

Chapter 7

Damian P Richard

National Collegiate Student Loan

Represented By
Damian P Richard

Plaintiff(s):

John Martin Mata

Represented By
Michael E Clark
Austin C Smith

Livier Mata

Represented By
Michael E Clark
Austin C Smith

Trustee(s):

Helen R. Frazer (TR)

Pro Se

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6:13-30625 John Martin Mata

Chapter 7

Adv#: 6:18-01089 Mata et al v. National Collegiate Student Loan Trust 2006-1 et a

#35.00 CONT-Status Conference RE: [1] Adversary case 6:18-ap-01089. Complaint by John Martin Mata, Livier Mata against National Collegiate Student Loan Trust 2006-1, NATIONAL COLLEGIATE STUDENT LOAN TRUST 2006-4, National Collegiate Student Loan Trust 2007-1. (Charge To Estate) - Filing Fee Not Required. Determination of Discharge Under 11 U.S.C. Sect 523(a)(8) Nature of Suit: 63 - Dischargeability - 523(a)(8), student loan, 91 - Declaratory judgment

From: 6/27/18, 8/22/18

Also #34

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Martin Mata

Represented By
Michael E Clark

Defendant(s):

National Collegiate Student Loan

Represented By
Damian P Richard

NATIONAL COLLEGIATE

Represented By
Damian P Richard

National Collegiate Student Loan

Represented By
Damian P Richard

Joint Debtor(s):

Livier Mata

Represented By

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CONT... John Martin Mata

Chapter 7

Michael E Clark

Plaintiff(s):

John Martin Mata

Represented By
Michael E Clark
Austin C Smith

Livier Mata

Represented By
Michael E Clark
Austin C Smith

Trustee(s):

Helen R. Frazer (TR)

Pro Se

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6:18-12027 Richard M. Thomas

Chapter 7

Adv#: 6:18-01156 Anderson, Chapter 7 Trustee v. Williams et al

#36.00 Motion to Set Aside Default

Also #37 & #38

EH__

Docket 24

Tentative Ruling:

02/27/2019

BACKGROUND

On March 14, 2018, Richard M. Thomas, III & Raquel Young (collectively "Debtors"; individually "Richard III" and "Raquel") filed a Chapter 7 voluntary petition. On June 25, 2018, Debtors received a discharge.

On July 18, 2018, Trustee filed a complaint against Amy Williams and Richard M. Thomas, Jr. (collectively "Defendants"; individually "Amy" and "Richard Jr.") for (1) avoidance and recovery of fraudulent transfer; (2) declaratory relief as to ownership of real property; and (3) authorization to sell property owned in part by non-debtor. On August 22, 2018, default was entered against Debtors. On October 15, 2018, Trustee filed a motion for default judgment ("MDJ")

Trustee's complaint relates to certain real property located at 17232 Lakeview Ct., Fontana, CA 92336 (the "Property"). Trustee asserts that the Property was acquired by Richard III and Richard Jr. on September 9, 2014, and was transferred to Amy, for no consideration, thirty-seven days prior to the petition date. Trustee's complaint contains seven claims for relief: (a) avoidance of fraudulent transfer – actual intent; (b) three claims for avoidance of fraudulent transfer – constructive intent; (c) recovery of avoided transfer; (d) declaratory relief against Richard Jr.; and (e) approval for sale of real property owned, in part, by a non-debtor. Regarding the avoidance of a

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CONT...

Richard M. Thomas

Chapter 7

fraudulent transfer, Trustee's motion for default judgment appears to rest on the second claim for relief. Subsequent to the entry of default, Trustee and Defendant Amy stipulated to continuance of the hearing on the MDJ to permit the Defendant to seek to set aside the default.

On February 6, 2019, Defendant Amy filed a Motion to Set Aside Default ("MSA"). The Trustee opposes the MSA.

DISCUSSION

THE MOTION TO SET ASIDE

Federal Rule of Civil Procedure 55(c) (made applicable by Fed. R. Bankr.P. 7055) provides that "[f]or good cause shown the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60(b)". FRBP 7055.

To determine "good cause" under this Rule, a court must consider three factors:

- (1) whether the party seeking to set aside the default engaged in culpable conduct that led to the default;
- (2) whether it had no meritorious defense; or
- (3) whether reopening the default judgment would prejudice the other party.

United States v. Signed Personal Check No. 730 of Yubran S. Mesle, 615 F.3d 1085, 1091 (9th Cir. 2010) (citing *Franchise Holding II v. Huntington Rests. Group, Inc.*, 375 F.3d 922, 925–26 (9th Cir. 2004), cert. denied 544 U.S. 949 (2005)). This test is disjunctive, such that a finding that any one of the factors is true is sufficient for the court to refuse to set aside the default. It is the same test used to determine whether a default judgment should be set aside under Civil Rule 60(b). *Id.* While a court has the discretion to refuse to set aside a default judgment for excusable neglect under Fed.R.Civ.P. 60(b) if it finds one of the enumerated factors present, it is not mandatory that it do so. *See Brandt v. Am. Bankers Ins. Co. of Fla.*, 653 F.3d 1108 (9th Cir.2011). "Crucially, however, 'judgment by default is a drastic step appropriate only in extreme circumstances; a case should, whenever possible, be decided on the merits.' " *Signed Personal Check No. 730* at 1091 (citing *Falk v. Allen*, 739 F.2d 461,

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CONT... **Richard M. Thomas**
463 (9th Cir.1984)).

Chapter 7

- (1) whether the party seeking to set aside the default engaged in culpable conduct that led to the default

First, the Court does not credit Amy's assertion that she did not understand that she was being sued when she received the Complaint. Nevertheless, Amy appeared at the September 26, 2018, Status Conference and was advised by the Court to seek assistance of counsel. Less than one month later, the Trustee filed a Motion for Default Judgement. Neither the Trustee nor Amy communicated with the other prior to the Trustee's filing of the Motion for Default Judgment. The Trustee certainly moved aggressively, but on balance, the Court is persuaded that the entry of the default was due to the Amy's inexcusable failure to take the initial summons and Complaint seriously.

- (2) whether it had no meritorious defense

The Defendant provided evidence that she paid \$7,500 to the Debtor for the Subject Property with a promise to pay more after the Subject Property was flipped. The Trustee provides analysis of why the consideration and promise to pay constituted less than reasonably equivalent value. However, the Court finds that the payment is sufficiently more than a nominal amount of money which when coupled with the promise to pay at least indicates there is a possibility that Defendant Amy may have a defensible position.

- (3) whether reopening the default judgment would prejudice the other party.

As indicated in the Court's analysis regarding culpable conduct, Defendant Amy's inexcusable failure to read and take seriously the Complaint resulted in the default at issue. Her decision to take no action prior to the September Status Conference plus the additional time she took to find counsel after the Status Conference, coupled with her failure to communicate with Trustee regarding her efforts to find counsel, resulted in the filing of the instant MDJ. The Court finds that based on Defendant's unexcused delays, setting aside of the default should be conditioned on her payment of the Trustee's attorneys fees and costs incurred in connection with preparation of the MDJ.

Based on the foregoing, the Court is inclined to GRANT the Motion. Specifically, the existence of a potentially meritorious defense coupled with the public policy favoring

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CONT...

Richard M. Thomas

Chapter 7

decisions on the merits warrants setting aside of the default, conditioned however on Defendant Amy likely paying some amount of the Trustee's fees and costs incurred within a reasonable period after the September 26, 2018 Status Conference, and associated with preparation of the MDJ.

TENTATIVE RULING

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

Defendant(s):

Amy Williams

Represented By
Anerio V Altman

Richard M Thomas Jr.

Pro Se

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

Movant(s):

Amy Williams

Represented By
Anerio V Altman

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

Trustee(s):

Karl T Anderson (TR)

Represented By

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CONT...

Richard M. Thomas

Larry D Simons
Frank X Ruggier

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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:18-12027 Richard M. Thomas

Chapter 7

Adv#: 6:18-01156 Anderson, Chapter 7 Trustee v. Williams et al

#37.00 CONT Motion for Default Judgment Against Defendants Amy Williams and Richard M. Thomas, Jr

From: 11/7/18, 12/12/18, 1/30/19

Also #36 & #38

EH__

Docket 13

Tentative Ruling:

Given the Court's ruling on the MSA, the MDJ is conditionally moot as to Defendant Amy. As to Richard Jr., the motion was served on Richard Jr. at the Property. The motion for default judgment, however, contends that Richard Jr. does not have any equitable ownership in the Property. While residency is not clear from the motion, the motion specifically states "[t]he Trustee believes that Defendant Thomas is not currently residing in the Subject Property." The Court also notes that at various points in the motion, Trustee has confused the identity of Richard III and Richard Jr. For instance, paragraph 2 of the declaration states: "The debtor Richard M. Thomas aka Richard M. Thomas, Jr. initiated this Bankruptcy case by filing a voluntary petition" when, in fact, it was Richard III, not Richard Jr., who filed bankruptcy. Given this apparent confusion, and Trustee's explicit contention that Richard Jr. is not residing at the Property, the Court will require further service on Richard Jr. or clear evidence establishing that service was proper.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

CONT... Richard M. Thomas

Chapter 7

Defendant(s):

Amy Williams

Represented By
Anerio V Altman

Richard M Thomas Jr.

Pro Se

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

Movant(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:18-12027 Richard M. Thomas

Chapter 7

Adv#: 6:18-01156 Anderson, Chapter 7 Trustee v. Williams et al

#38.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01156. Complaint by Karl T. Anderson, Chapter 7 Trustee against Amy Williams, Richard M Thomas Jr.. (Charge To Estate) (\$350.00). Complaint to: (1) Avoid and Recover Fraudulent Transfer; (2) Obtain Declaratory Relief as to Ownership of Real Property; and (3) Authorize Sale of Property Owned in Part by Non-Debtor Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

From: 9/26/18, 11/7/18, 12/12/18, 1/30/19

Also #36 & #37

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

Defendant(s):

Amy Williams

Represented By
Anerio V Altman

Richard M Thomas Jr.

Pro Se

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

**United States Bankruptcy Court
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CONT... Richard M. Thomas

Chapter 7

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, February 27, 2019

Hearing Room 303

2:00 PM

6:18-20477 Connie Gutierrez

Chapter 7

Adv#: 6:19-01028 Whitmore v. Gutierrez et al

#39.00 Order To Show Cause RE: [2] Motion for a temporary restraining order without notice, and (2) an order to show cause why a preliminary injunction should not be issued

EH__

Docket 2

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Connie Gutierrez

Represented By
Keith Q Nguyen

Defendant(s):

Daniel Gutierrez

Represented By
Lane K Bogard

Toby Gutierrez

Pro Se

Movant(s):

Robert S. Whitmore

Represented By
Julie Philippi

Plaintiff(s):

Robert S. Whitmore

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:13-18779 Rigoberto Baez

Chapter 13

#1.00 CONT Motion For Order Denying Discharge Or Dismissing Case

From: 1/31/19

EH__

Docket 172

Tentative Ruling:

1/31/19

BACKGROUND

On May 17, 2013, Rigoberto Baez ("Debtor") filed a Chapter 13 voluntary petition. On June 25, 2013, Debtor's Chapter 13 plan was confirmed. Debtor's Chapter 13 plan was subsequently amended on two occasions.

On December 6, 2018, Trustee filed a notice of final cure mortgage payment. On December 27, 2018, Wells Fargo Bank N.A. filed a response, stating that Debtor was \$11,338.57 delinquent in post-confirmation payments.

On December 28, 2018, Trustee filed a motion to deny discharge or, in the alternative, dismiss the case. Because Trustee has only provided legal analysis support dismissal of the case, not citing any legal basis to deny a discharge in this situation, the Court will consider the motion as a motion to dismiss. On January 16, 2019, Debtor filed his opposition. The opposition asserts that Debtor disputes Wells Fargo's accounting, and that Debtor will work with Wells Fargo to resolve the situation.

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Central District of California
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Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Rigoberto Baez

Chapter 13

DISCUSSION

As noted by Trustee, 11 U.S.C. § 1307(c)(6) states:

(c) Except as provided in subsection (f) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including ---

(6) material default by the debtor with respect to a term of a confirmed plan

Trustee asserts that direct payments to Wells Fargo are payments under the plan, and the default in this case is material. Debtor has not provided any contrary legal authority on either point. The Court agrees with Trustee that direct payments to a lender are still considered payments under the plan. *See, e.g., In Matter of Kessley*, 655 Fed. Appx. 242, 244 (5th Cir. 2016); *see also In re Evans*, 543 B.R. 213 (Bankr. E.D. Va. 2016) (collecting cases). The Court also agrees that the post-confirmation default of \$11,338.57 is material, assuming that that figure is accurate.

TENTATIVE RULING

Debtor to apprise the Court of the status of the post-confirmation delinquency and any efforts to resolve the situation with Wells Fargo. Absent resolution, the Court is inclined to GRANT the motion.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Rigoberto Baez

Chapter 13

Debtor(s):

Rigoberto Baez

Represented By
Michael Smith
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:15-16710 Sean Kirkpatrick

Chapter 13

#2.00 CONT Motion For Sanctions for Violation of the Automatic Stay

From: 12/6/18, 12/20/18, 1/17/19

CASE DISMISSED 4/1/16

EH__

Docket 65

*** VACATED *** REASON: ORDER ENTERED 2/27/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sean Kirkpatrick

Represented By
Javier H Castillo

Movant(s):

Sean Kirkpatrick

Represented By
Javier H Castillo
Javier H Castillo
Javier H Castillo

Trustee(s):

Rod (MJ) Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:17-15604 Mandy Catron

Chapter 13

#3.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 2875 West June Place, San Bernardino, CA 92407

MOVANT: WELLS FARGO BANK NA

From: 2/5/19

EH__

Docket 57

Tentative Ruling:

02/05/2019

Service: Proper

Opposition: None

GRANT relief from the stay under §§ 362(d)(1). GRANT waiver of 4001(a)(3) stay and GRANT requests for relief under ¶¶ 3 and 12 of the prayer for relief. DENY request for relief from the co-debtor stay for lack of cause shown and DENY request for APO as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Mandy Catron

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Darlene C Vigil

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, February 28, 2019

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11:00 AM

CONT... Mandy Catron

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:17-15662 Jemill M Humphrey

Chapter 13

#4.00 Motion to Disallow Claims Cavalry SPV

Also #5 & #6

EH__

Docket 50

Tentative Ruling:

2/28/19

BACKGROUND:

On July 6, 2017, Jemill Humphrey ("Debtor") filed a Chapter 13 voluntary petition. On August 29, 2017, Debtor's Chapter 13 plan was confirmed.

On October 4, 2017, LVNV Funding, LLC ("LVNV") filed a proof of the claim in the amount of \$980.29 ("Claim 11"). On November 14, 2017, Cavalry SPV I, LLC ("Cavalry") filed a proof of claim in the amount of \$35,962.95 ("Claim 20"). On January 29, 2019, Debtor filed claim objections to Claim 11 and Claim 20. Debtor argues that both claims are barred by the statute of limitations.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim,

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CONT... **Jemill M Humphrey**

Chapter 13

that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

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CONT...

Jemill M Humphrey

Chapter 13

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 11 is based on "credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of May 22, 2007. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 11 is unenforceable.

Claim 20 is based on a "consumer loan." This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identified a last transaction date of June 2, 2008. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 20 is unenforceable.

Furthermore, the Court deems failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-(1)(h).

TENTATIVE RULING

**United States Bankruptcy Court
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CONT... Jemill M Humphrey

Chapter 13

The Court is inclined to GRANT the motion, DISALLOWING Claim 11 and Claim 20 in their entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jemill M Humphrey

Represented By
Paul Y Lee

Movant(s):

Jemill M Humphrey

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:17-15662 Jemill M Humphrey

Chapter 13

#5.00 Motion to Disallow Claims LVNV Funding

Also #4 & #6

EH__

Docket 51

Tentative Ruling:

2/28/19

BACKGROUND:

On July 6, 2017, Jemill Humphrey ("Debtor") filed a Chapter 13 voluntary petition. On August 29, 2017, Debtor's Chapter 13 plan was confirmed.

On October 4, 2017, LVNV Funding, LLC ("LVNV") filed a proof of the claim in the amount of \$980.29 ("Claim 11"). On November 14, 2017, Cavalry SPV I, LLC ("Cavalry") filed a proof of claim in the amount of \$35,962.95 ("Claim 20"). On January 29, 2019, Debtor filed claim objections to Claim 11 and Claim 20. Debtor argues that both claims are barred by the statute of limitations.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim,

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CONT... **Jemill M Humphrey**

Chapter 13

that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

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CONT...

Jemill M Humphrey

Chapter 13

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 11 is based on "credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of May 22, 2007. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 11 is unenforceable.

Claim 20 is based on a "consumer loan." This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identified a last transaction date of June 2, 2008. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 20 is unenforceable.

Furthermore, the Court deems failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-(1)(h).

TENTATIVE RULING

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CONT... Jemill M Humphrey

Chapter 13

The Court is inclined to GRANT the motion, DISALLOWING Claim 11 and Claim 20 in their entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jemill M Humphrey

Represented By
Paul Y Lee

Movant(s):

Jemill M Humphrey

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:17-15662 Jemill M Humphrey

Chapter 13

#6.00 CONT Trustee's Motion to Dismiss Case

From: 1/31/19

Also #4 & #5

EH__

Docket 42

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jemill M Humphrey

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:17-17189 Earma Denise Young Washington and Marvin Ray

Chapter 13

#7.00 CONT Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments

From: 2/7/19

Also #8

EH__

Docket 57

***** VACATED *** REASON: ORDER ENTERED 2/8/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Earma Denise Young Washington	Represented By Brad Weil
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Joint Debtor(s):

Marvin Ray Washington	Represented By Brad Weil
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Movant(s):

Earma Denise Young Washington	Represented By Brad Weil
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Marvin Ray Washington	Represented By Brad Weil
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Trustee(s):

Rod Danielson (TR)	Pro Se
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United States Bankruptcy Court
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Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:17-17189 Earma Denise Young Washington and Marvin Ray

Chapter 13

#8.00 CONT Trustee's Motion to Dismiss Case

From: 1/10/19, 2/7/19

Also #7

EH__

Docket 53

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/25/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Earma Denise Young Washington

Represented By
Brad Weil

Joint Debtor(s):

Marvin Ray Washington

Represented By
Brad Weil

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-10170 Vernita Goodwin

Chapter 13

#9.00 CONT Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments

From: 1/17/19, 1/24/19

Also #10 & #10.1

EH__

Docket 73

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Movant(s):

Vernita Goodwin

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:18-10170 Vernita Goodwin

Chapter 13

#10.00 CONT Trustee's Motion to Dismiss Case Re Delinquency

From: 12/20/18, 1/17/19, 1/24/19

Also #9 & #10.1

EH ____

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:18-10170 Vernita Goodwin

Chapter 13

#10.10 CONT Trustee's Motion to Dismiss Case Due To Infeasibility Of Plan

From: 1/10/19, Adv. Fr. 2/7/19, 1/24/19

Also #9 & #10

EH__

Docket 70

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-11403 Dony M Portillo and Raquel A Portillo

Chapter 13

#11.00 Amended Motion (related document(s): 41 Motion to Disallow Claims filed by Debtor Dony M Portillo, Joint Debtor Raquel A Portillo)

EH__

Docket 43

***** VACATED *** REASON: ORDER ENTERED 2/20/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dony M Portillo

Represented By
Paul Y Lee

Joint Debtor(s):

Raquel A Portillo

Represented By
Paul Y Lee
Andrea Liddick

Movant(s):

Dony M Portillo

Represented By
Paul Y Lee

Raquel A Portillo

Represented By
Paul Y Lee
Paul Y Lee
Andrea Liddick
Andrea Liddick

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-16811 Donna Roberto

Chapter 13

#12.00 Motion to Withdraw as Attorney for Debtor

Also #13

EH__

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Represented By
Todd L Turoci

Movant(s):

Donna Roberto

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:18-16811 Donna Roberto

Chapter 13

#13.00 Trustee's Motion to Dismiss Case

Also #12

EH__

Docket 46

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-17883 Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

#14.00 Motion to Disallow Claim No. 6-1 filed by Bank of America N.A.

Also #15 & #16

EH__

Docket 33

Tentative Ruling:

2/28/19

BACKGROUND:

On September 18, 2018, Norberto & Araceli Jimenez ("Debtors") filed a Chapter 13 voluntary petition. On December 7, 2018, Debtors' Chapter 13 plan was confirmed.

Bank of America, N.A. ("Creditor") has filed three claims in the instant case. The first claim was filed on October 12, 2018, and is in the amount of \$18,471.67 ("Claim 5"). The second claim was filed on October 15, 2018, and is in the amount of \$11,596.76 ("Claim 6"). The final claim was filed October 30, 2018, and is in the amount of \$5,385.31 ("Claim 7"). On January 10, 2019, Debtors filed claim objections to all three claims.

The Court notes that Debtors previously filed a Chapter 13 petition on December 26, 2013, and that case was dismissed on December 27, 2016. Then, Debtors filed another Chapter 13 petition on July 5, 2018, and that case was dismissed on September 13, 2018.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 5 is based on "consumer credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of September 25, 2009. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 5 is unenforceable.

Claim 6 is based on "consumer credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of September 2, 2011.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez Chapter 13

This is more than four years prior to the filing of the bankruptcy case. Nevertheless, CAL. CODE CIV. P. § 356 states: "[w]hen the commencement of an action is stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action." This provision has the effect of excluding those time periods when Debtors had an active Chapter 13 case. The Court notes that, as of September 18, 2018, the petition date in the instant case, it appears that 3 years and 310 days had elapsed since the last transaction, after excluding those days during which the automatic stay was in effect. Therefore, the statute of limitations has not expired with regard to Claim 6.

Claim 7 is based on "consumer credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of April 2, 2013. For the reasons recited in the previous paragraph, the statute of limitations has not expired with regard to Claim 7.

TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of DISALLOWING Claim 5 in its entirety and DENY the motion for disallowance of Claim 6 and Claim 7.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Norberto Calalay Jimenez

Represented By
Christopher J Langley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

Joint Debtor(s):

Araceli Corrales Jimenez

Represented By
Christopher J Langley

Movant(s):

Norberto Calalay Jimenez

Represented By
Christopher J Langley

Araceli Corrales Jimenez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-17883 Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

#15.00 Motion to Disallow Claim No 7-1 filed by Bank of America N.A.

Also #14 & #16

EH__

Docket 34

Tentative Ruling:

2/28/19

BACKGROUND:

On September 18, 2018, Norberto & Araceli Jimenez ("Debtors") filed a Chapter 13 voluntary petition. On December 7, 2018, Debtors' Chapter 13 plan was confirmed.

Bank of America, N.A. ("Creditor") has filed three claims in the instant case. The first claim was filed on October 12, 2018, and is in the amount of \$18,471.67 ("Claim 5"). The second claim was filed on October 15, 2018, and is in the amount of \$11,596.76 ("Claim 6"). The final claim was filed October 30, 2018, and is in the amount of \$5,385.31 ("Claim 7"). On January 10, 2019, Debtors filed claim objections to all three claims.

The Court notes that Debtors previously filed a Chapter 13 petition on December 26, 2013, and that case was dismissed on December 27, 2016. Then, Debtors filed another Chapter 13 petition on July 5, 2018, and that case was dismissed on September 13, 2018.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (quoting *In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (quoting *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (quoting *Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; see also *Holm*, 931 F.2d at 623.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 5 is based on "consumer credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of September 25, 2009. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 5 is unenforceable.

Claim 6 is based on "consumer credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of September 2, 2011.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez Chapter 13

This is more than four years prior to the filing of the bankruptcy case. Nevertheless, CAL. CODE CIV. P. § 356 states: "[w]hen the commencement of an action is stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action." This provision has the effect of excluding those time periods when Debtors had an active Chapter 13 case. The Court notes that, as of September 18, 2018, the petition date in the instant case, it appears that 3 years and 310 days had elapsed since the last transaction, after excluding those days during which the automatic stay was in effect. Therefore, the statute of limitations has not expired with regard to Claim 6.

Claim 7 is based on "consumer credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of April 2, 2013. For the reasons recited in the previous paragraph, the statute of limitations has not expired with regard to Claim 7.

TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of DISALLOWING Claim 5 in its entirety and DENY the motion for disallowance of Claim 6 and Claim 7.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Norberto Calalay Jimenez

Represented By
Christopher J Langley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

Joint Debtor(s):

Araceli Corrales Jimenez

Represented By
Christopher J Langley

Movant(s):

Norberto Calalay Jimenez

Represented By
Christopher J Langley

Araceli Corrales Jimenez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-17883 Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

#16.00 Motion to Disallow Claim No. 5-1 filed by Bank of America, N.A.

Also #14 & #15

EH__

Docket 32

Tentative Ruling:

2/28/19

BACKGROUND:

On September 18, 2018, Norberto & Araceli Jimenez ("Debtors") filed a Chapter 13 voluntary petition. On December 7, 2018, Debtors' Chapter 13 plan was confirmed.

Bank of America, N.A. ("Creditor") has filed three claims in the instant case. The first claim was filed on October 12, 2018, and is in the amount of \$18,471.67 ("Claim 5"). The second claim was filed on October 15, 2018, and is in the amount of \$11,596.76 ("Claim 6"). The final claim was filed October 30, 2018, and is in the amount of \$5,385.31 ("Claim 7"). On January 10, 2019, Debtors filed claim objections to all three claims.

The Court notes that Debtors previously filed a Chapter 13 petition on December 26, 2013, and that case was dismissed on December 27, 2016. Then, Debtors filed another Chapter 13 petition on July 5, 2018, and that case was dismissed on September 13, 2018.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 5 is based on "consumer credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of September 25, 2009. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 5 is unenforceable.

Claim 6 is based on "consumer credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of September 2, 2011.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez Chapter 13

This is more than four years prior to the filing of the bankruptcy case. Nevertheless, CAL. CODE CIV. P. § 356 states: "[w]hen the commencement of an action is stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action." This provision has the effect of excluding those time periods when Debtors had an active Chapter 13 case. The Court notes that, as of September 18, 2018, the petition date in the instant case, it appears that 3 years and 310 days had elapsed since the last transaction, after excluding those days during which the automatic stay was in effect. Therefore, the statute of limitations has not expired with regard to Claim 6.

Claim 7 is based on "consumer credit card" debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of April 2, 2013. For the reasons recited in the previous paragraph, the statute of limitations has not expired with regard to Claim 7.

TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of DISALLOWING Claim 5 in its entirety and DENY the motion for disallowance of Claim 6 and Claim 7.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Norberto Calalay Jimenez

Represented By
Christopher J Langley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

Joint Debtor(s):

Araceli Corrales Jimenez

Represented By
Christopher J Langley

Movant(s):

Norberto Calalay Jimenez

Represented By
Christopher J Langley

Araceli Corrales Jimenez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:19-10290 Miguel Jose Padilla, Jr. and Holly Lynn Padilla

Chapter 13

#17.00 Motion for Setting Property Value re 2014 Ram 1500 Tradesman Pickup

Also #18

EH__

Docket 17

Tentative Ruling:

2/28/19

BACKGROUND

On January 14, 2019, Miguel & Holly Padilla ("Debtors") filed a Chapter 13 voluntary petition. Among the assets of the estate are a 2015 Dodge Journey (the "Dodge") and a 2014 Ram 1500 (the "Ram"). Santander Consumer USA Inc. d/b/a Chrysler Capital ("Creditor") holds a security interest in both the Dodge and the Ram. On January 29, 2019, Creditor filed a proof of claim in the amount of \$29,088.26, identifying \$19,225 as secured by the Ram. On January 31, 2019, Creditor filed an additional proof of claim in the amount of \$20,147.58, identifying \$13,025 as secured by the Dodge.

On February 6, 2019, Debtors filed motions to value regarding both the Dodge and the Ram. Debtors assert that the Dodge should be valued at \$11,219 and that the Ram should be valued at \$17,476.

DISCUSSION

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Miguel Jose Padilla, Jr. and Holly Lynn Padilla

Chapter 13

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

Presently the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Kelly Blue Book report identifying the private party values of the Dodge and the Ram. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

TENTATIVE RULING

The Court is inclined to CONTINUE the hearings for supplemental evidence.

APPEARANCES REQUIRED.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Miguel Jose Padilla, Jr. and Holly Lynn Padilla

Chapter 13

Party Information

Debtor(s):

Miguel Jose Padilla Jr.

Represented By
Todd L Turoci

Joint Debtor(s):

Holly Lynn Padilla

Represented By
Todd L Turoci

Movant(s):

Miguel Jose Padilla Jr.

Represented By
Todd L Turoci

Holly Lynn Padilla

Represented By
Todd L Turoci
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:19-10290 Miguel Jose Padilla, Jr. and Holly Lynn Padilla

Chapter 13

#18.00 Motion for Setting Property Value re 2015 Dodge Journey

Also #17

EH__

Docket 16

Tentative Ruling:

2/28/19

BACKGROUND

On January 14, 2019, Miguel & Holly Padilla ("Debtors") filed a Chapter 13 voluntary petition. Among the assets of the estate are a 2015 Dodge Journey (the "Dodge") and a 2014 Ram 1500 (the "Ram"). Santander Consumer USA Inc. d/b/a Chrysler Capital ("Creditor") holds a security interest in both the Dodge and the Ram. On January 29, 2019, Creditor filed a proof of claim in the amount of \$29,088.26, identifying \$19,225 as secured by the Ram. On January 31, 2019, Creditor filed an additional proof of claim in the amount of \$20,147.58, identifying \$13,025 as secured by the Dodge.

On February 6, 2019, Debtors filed motions to value regarding both the Dodge and the Ram. Debtors assert that the Dodge should be valued at \$11,219 and that the Ram should be valued at \$17,476.

DISCUSSION

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Miguel Jose Padilla, Jr. and Holly Lynn Padilla

Chapter 13

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

Presently the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Kelly Blue Book report identifying the private party values of the Dodge and the Ram. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

TENTATIVE RULING

The Court is inclined to CONTINUE the hearings for supplemental evidence.

APPEARANCES REQUIRED.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Miguel Jose Padilla, Jr. and Holly Lynn Padilla

Chapter 13

Party Information

Debtor(s):

Miguel Jose Padilla Jr.

Represented By
Todd L Turoci

Joint Debtor(s):

Holly Lynn Padilla

Represented By
Todd L Turoci

Movant(s):

Miguel Jose Padilla Jr.

Represented By
Todd L Turoci

Holly Lynn Padilla

Represented By
Todd L Turoci
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19414 Paul Edward Young, Jr.

Chapter 13

#19.00 CONT Confirmation of Chapter 13 Plan

From: 1/10/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Edward Young Jr.

Represented By
Stephen L Burton

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19628 Reynaldo Perez and Gatziry Zeledon

Chapter 13

#20.00 CONT Motion for Order Determining Value of Collateral

From: 1/31/19

Also #21 & #22

EH__

Docket 26

Tentative Ruling:

1/31/2019

BACKGROUND

On November 13, 2018, Reynaldo Perez & Gatziry Zeledon ("Debtors") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2008 Lincoln Navigator (the "Property"). Wells Fargo Dealer Services ("Creditor") has a security interest in the Property. On December 27, 2018, Debtor filed a motion to determine the value of the property. Debtor requests that the Property be valued at \$8,950, leaving the balance of the claim, \$7,699, unsecured. On January 22, 2019, Creditor filed a proof of claim in the amount of \$15,384.63, identifying \$13,375 as secured by the Property.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See*

**United States Bankruptcy Court
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11:00 AM

CONT... Reynaldo Perez and Gatziry Zeledon

Chapter 13

In re Penrod, 636 F.3d 1175, 1177 (9th Cir. 2011).

Presently the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that retail value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Kelly Blue Book report indicating that the private party value of the Property is \$8,950. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

Tentative Ruling:

The Court is inclined to CONTINUE the matter for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Reynaldo Perez and Gatziry Zeledon

Chapter 13

Debtor(s):

Reynaldo Perez

Represented By
Paul Y Lee

Joint Debtor(s):

Gatziry Zeledon

Represented By
Paul Y Lee

Movant(s):

Reynaldo Perez

Represented By
Paul Y Lee

Gatziry Zeledon

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19628 Reynaldo Perez and Gatziry Zeledon

Chapter 13

#21.00 Motion For Order Determining Value Of Collateral

Also #20 & #22

EH__

Docket 39

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/5/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reynaldo Perez

Represented By
Paul Y Lee

Joint Debtor(s):

Gatziry Zeledon

Represented By
Paul Y Lee

Movant(s):

Reynaldo Perez

Represented By
Paul Y Lee

Gatziry Zeledon

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19628 Reynaldo Perez and Gatziry Zeledon

Chapter 13

#22.00 CONT Confirmation of Chapter 13 Plan

From: 1/17/19, 1/24/19, 1/31/19

Also #20 & #21

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reynaldo Perez

Represented By
Paul Y Lee

Joint Debtor(s):

Gatziry Zeledon

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19939 Eddie Rolison

Chapter 13

#23.00 Motion to Avoid Lien Property Lien with Kingsmead Asset Holding Trust re
14249 Calle Contesa Victorville, CA 92392

Also #24 & #25

EH__

Docket 28

Tentative Ruling:

2/28/19

The Court, having reviewed the motion, good cause appearing, and noting the lack of opposition, which the Court deems consent pursuant to Local Rule 9013-(1)(h), hereby GRANTS the motion, bifurcating the claim into a secured claim in the amount of \$6,453.70 and an unsecured claim in the amount of \$45,728.75.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Eddie Rolison

Represented By
Julie J Villalobos

Movant(s):

Eddie Rolison

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19939 Eddie Rolison

Chapter 13

**#24.00 Motion to Avoid Lien Property Lien with Kingsmead Asset Holding Trust re
14256 Calle Contesa Victorville, CA 92392**

Also #23 & #25

EH__

Docket 29

Tentative Ruling:

2/28/19

The Court, having reviewed the motion, good cause appearing, and noting the lack of opposition, which the Court deems consent pursuant to Local Rule 9013-(1)(h), hereby GRANTS the motion, bifurcating the claim into a secured claim in the amount of \$19,919.58 and an unsecured claim in the amount of \$33,318.36.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Eddie Rolison

Represented By
Julie J Villalobos

Movant(s):

Eddie Rolison

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19939 Eddie Rolison

Chapter 13

#25.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

Also #23 & #24

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddie Rolison

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19950 Cary Michael Clark and Trisha Lynn Clark

Chapter 13

#26.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

EH __

Docket 0

***** VACATED *** REASON: HEARD ON 1/31/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cary Michael Clark

Represented By
Dana Travis

Joint Debtor(s):

Trisha Lynn Clark

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19956 Herman A. Wendorff and Monica Wendorff

Chapter 13

#27.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

EH __

Docket 0

***** VACATED *** REASON: HEARD ON 1/31/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Herman A. Wendorff

Represented By
Daniel King

Joint Debtor(s):

Monica Wendorff

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19965 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#28.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

EH __

Docket 0

***** VACATED *** REASON: HEARD ON 1/31/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19969 Daniel Porche and Leta Lorraine Porche

Chapter 13

#29.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

EH __

Docket 0

***** VACATED *** REASON: HEARD ON 1/31/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Porche

Represented By
Dana Travis

Joint Debtor(s):

Leta Lorraine Porche

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#30.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/7/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20070 Alexander J Perfinowicz and Ingeborg Maria Pefinowicz

Chapter 13

#31.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alexander J Perfinowicz

Represented By
Manfred Schroer

Joint Debtor(s):

Ingeborg Maria Pefinowicz

Represented By
Manfred Schroer

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20153 Miguel Angel Lopez

Chapter 13

#32.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Angel Lopez

Represented By
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20200 Denise Cherie Darden

Chapter 13

#33.00 CONT Confirmation of Chapter 13 Plan

From: 2/7/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denise Cherie Darden

Represented By
Julie Philippi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20238 Efrain Padron

Chapter 13

#34.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Efrain Padron

Represented By
Patricia A Mireles

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20296 Daniel Lee Crump

Chapter 13

#35.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Lee Crump

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20308 Joseph Liebgott, IV and Robby Jean Harrison

Chapter 13

#36.00 CONT Confirmation of Chapter 13 Plan

From: 2/7/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Liebgott IV

Represented By
John F Brady

Joint Debtor(s):

Robby Jean Harrison

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20334 Yvonne Irene Rodriguez

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/28/18**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yvonne Irene Rodriguez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20369 Harry Neil Findor

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Harry Neil Findor

Represented By
Michael Avanesian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20402 Frank T. Moore

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank T. Moore

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20410 Pamela M Bradford

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pamela M Bradford

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20412 Clemente Castro Reyes

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Clemente Castro Reyes

Represented By
Andrew Moher

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20413 Jose Ramon Castaneda

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Ramon Castaneda

Represented By
Andrew Moher

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20421 Jesse Armando Holguin

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/2/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesse Armando Holguin

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20429 Jerry Arnold La Cues

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 1/2/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerry Arnold La Cues

Represented By
Dana J Oliver

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20436 Shelley Elizabeth Gastelo

Chapter 13

#45.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 2/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shelley Elizabeth Gastelo

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20463 Eric R. Wells Jr

Chapter 13

#46.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 1/2/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eric R. Wells Jr

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20485 Stephanie Patrice Robinson

Chapter 13

#47.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie Patrice Robinson

Represented By
W. Derek May

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20513 Eddie Fitz

Chapter 13

#48.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddie Fitz

Represented By
Payom Ilkanipour

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20535 Peter W Fournier and Leslie Fournier

Chapter 13

#49.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Peter W Fournier

Represented By
Laleh Ensafi

Joint Debtor(s):

Leslie Fournier

Represented By
Laleh Ensafi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20547 Tawnie L Vanderham

Chapter 13

#50.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tawnie L Vanderham

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20552 Theresa Jones

Chapter 13

#51.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Theresa Jones

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20569 Dolores Thompson Boone

Chapter 13

#52.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dolores Thompson Boone

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20590 Scott B Alexander

Chapter 13

#53.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Scott B Alexander

Represented By
William E Windham

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20611 Tonnette Bell

Chapter 13

#54.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/7/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tonnette Bell

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20619 Deverick Brian Jackson

Chapter 13

#55.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Deverick Brian Jackson

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20635 Luis Antonio Gaeta

Chapter 13

#56.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Antonio Gaeta

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20639 Robert A Price

Chapter 13

#57.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert A Price

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20640 Mason Gilbert

Chapter 13

#58.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mason Gilbert

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20644 Terry E Crossley and Janell Crossley

Chapter 13

#59.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Terry E Crossley

Represented By
Christopher J Langley

Joint Debtor(s):

Janell Crossley

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20653 Maria M. Gallegos

Chapter 13

#60.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria M. Gallegos

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-20707 Ofelia Romero

Chapter 13

#61.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/11/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ofelia Romero

Pro Se

Trustee(s):

Rod (MH) Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-18622 Jackie May Zapata

Chapter 13

#62.00 CONT Confirmation of Chapter 13 Plan

From: 11/29/18, 1/31/19

EH __

Docket 0

*** VACATED *** REASON: HEARD ON 1/31/19 AT 11:00 A.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jackie May Zapata

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19196 Sheila Rosales Manabat

Chapter 13

#63.00 CONT Confirmation of Chapter 13 Plan

From: 1/10/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sheila Rosales Manabat

Represented By
John A Varley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-19233 Yair Salvador Carranza Contreras

Chapter 13

#64.00 CONT Confirmation of Chapter 13 Plan

From: 1/10/19, 1/31/19

EH __

Docket 0

***** VACATED *** REASON: HEARD ON 1/31/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yair Salvador Carranza Contreras

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:19-10445 Abidan Aceves and Cindy Aceves

Chapter 13

#65.00 Motion for Setting Property Value Collateral Held by Northrop Grumman Federal Credit Union

EH__

Docket 12

Tentative Ruling:

2/28/19

BACKGROUND

On January 18, 2019, Abidan & Cindy Aceves ("Debtors") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2006 Chevrolet Silverado (the "Property"). Northrop Grumman Federal Credit Union ("Creditor") holds a security interest in the Property. On January 28, 2019, Creditor filed a proof of claim in the amount of \$16,229.83, identifying \$10,507 as secured by the Property.

On January 31, 2019, Debtors filed a motion to value the Property. Debtors assert that the Property should be valued at \$7,856.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Abidan Aceves and Cindy Aceves

Chapter 13

Presently the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Kelly Blue Book report identifying the private party values of the Dodge and the Ram. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

TENTATIVE RULING

The Court is inclined to CONTINUE the hearings for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Abidan Aceves

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Abidan Aceves and Cindy Aceves

Chapter 13

Rabin J Pournazarian

Joint Debtor(s):

Cindy Aceves

Represented By
Rabin J Pournazarian

Movant(s):

Abidan Aceves

Represented By
Rabin J Pournazarian

Cindy Aceves

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#66.00 Motion to Withdraw as Attorney for Plaintiff

Also #67

EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Represented By
Todd L Turoci

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler
Todd L Turoci

Jennifer Bursch

Represented By
Robert H Tyler
Todd L Turoci

Movant(s):

Donna Roberto

Represented By
Todd L Turoci

Donna Roberto

Represented By
Todd L Turoci

Plaintiff(s):

Donna Roberto

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Donna Roberto

Todd L Turoci

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#67.00 Motion to Continue Hearing On (related documents 5 Motion to Dismiss Adversary Proceeding)

Also #66

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Represented By
Todd L Turoci

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler
Todd L Turoci

Jennifer Bursch

Represented By
Robert H Tyler
Todd L Turoci

Movant(s):

Donna Roberto

Represented By
Todd L Turoci

Donna Roberto

Represented By
Todd L Turoci

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:00 AM

CONT... Donna Roberto

Chapter 13

Plaintiff(s):

Donna Roberto

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:14-13931 Annie Estrada

Chapter 13

#68.00 Trustee's Motion to Dismiss Case re Delinquency

EH__

Docket 118

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annie Estrada

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:14-23150 Vivian Munson

Chapter 13

#69.00 CONT Trustee's Motion to Dismiss Case

From: 7/23/18, 8/23/18, 10/25/18, 1/31/19

EH__

Docket 218

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vivian Munson

Represented By
Amanda G Billyard
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:15-12176 Bonnie Jean Conant

Chapter 13

#70.00 Trustee's Motion to Dismiss Case re Delinquency

EH__

Docket 98

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bonnie Jean Conant

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:15-13811 Christopher Lee Sumners

Chapter 13

#71.00 CONT Trustee's Motion to Dismiss Case

From: 2/7/19

EH__

Docket 97

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Lee Sumners

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:15-17743 Maria C. Ignacio

Chapter 13

#72.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria C. Ignacio

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:15-19804 Juan M Madueno Carrizoza

Chapter 13

#73.00 Trustee's Motion to Dismiss Case re Delinquency

EH__

Docket 76

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan M Madueno Carrizoza

Represented By
James Geoffrey Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:16-12453 Michael Joseph Fodor

Chapter 13

#74.00 CONT Trustee's Motion to Dismiss Case

From: 1/31/19

EH__

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Joseph Fodor

Represented By
Michael D Franco

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:16-16909 Edward Edmund Zozaya and Georgia Parrilla Zozaya

Chapter 13

#75.00 Trustee's Motion to Dismiss Case

EH__

Docket 247

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edward Edmund Zozaya

Represented By
Dana Travis

Joint Debtor(s):

Georgia Parrilla Zozaya

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:16-18372 Gene Ashley Heisser, Jr.

Chapter 13

#76.00 Trustee's Motion to Dismiss Case

EH__

Docket 110

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gene Ashley Heisser Jr.

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:16-18970 Pedro Canchola and Esther Valle Canchola

Chapter 13

#77.00 Trustee's Motion to Dismiss Case

EH__

Docket 62

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/28/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pedro Canchola

Represented By
Leonard Pena

Joint Debtor(s):

Esther Valle Canchola

Represented By
Leonard Pena

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:16-19890 Rick Gaeta Carreon

Chapter 13

#78.00 Trustee's Motion to Dismiss Case

EH ____

Docket 110

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/25/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rick Gaeta Carreon

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:16-20163 Sandra M. Hankins

Chapter 13

#79.00 Trustee's Motion to Dismiss Case

EH__

Docket 71

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sandra M. Hankins

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:17-14549 Denice Laree Grimes and Derrick Gregory Grimes

Chapter 13

#80.00 CONT Trustee's Motion to Dismiss Case

From: 11/8/18, 12/20/18, 1/31/19

EH__

Docket 42

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denice Laree Grimes

Represented By
M. Wayne Tucker

Joint Debtor(s):

Derrick Gregory Grimes

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:13-18557 Michael Anthony Clay and Brenda Ann Clay

Chapter 13

#81.00 CONT Trustee's Motion to Dismiss Case

From: 1/31/19

EH__

Docket 285

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Anthony Clay

Represented By
Dana Travis

Joint Debtor(s):

Brenda Ann Clay

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:17-14619 Candice Maria Borrego

Chapter 13

#82.00 Trustee's Motion to Dismiss Case

EH__

Docket 81

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Candice Maria Borrego

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:17-14650 Brian Eugene Anderson and Gina Marie Anderson

Chapter 13

#83.00 Trustee's Motion to Dismiss Case

EH ____

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian Eugene Anderson

Represented By
Todd L Turoci

Joint Debtor(s):

Gina Marie Anderson

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:17-14777 Juanita Francis Casey

Chapter 13

#84.00 Trustee's Motion to Dismiss Case

EH__

Docket 56

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/24/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juanita Francis Casey

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:17-15660 Guillermina Perez

Chapter 13

#85.00 CONT Trustee's Motion to Dismiss Case due to Infeasibility of plan

From: 1/31/19

EH__

Docket 37

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Guillermina Perez

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:17-18366 Kisha Eugena Stegall-Hill

Chapter 13

#86.00 Trustee's Motion to Dismiss Case

EH__

Docket 72

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kisha Eugena Stegall-Hill

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:17-20388 Oracio Rosales Hernandez

Chapter 13

#87.00 Trustee's Motion to Dismiss Case

EH__

Docket 67

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oracio Rosales Hernandez

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:18-16178 Eriberto A. Sandoval

Chapter 13

#88.00 CONT Trustee's Motion to Dismiss Case

From: 1/17/19, 1/24/19, 2/7/19

EH ____

Docket 32

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eriberto A. Sandoval

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:18-10940 Ruben L Benitez and Christina M Benitez

Chapter 13

#89.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ruben L Benitez

Represented By
Sundee M Teeple

Joint Debtor(s):

Christina M Benitez

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:18-14761 Reginald D. Caldwell

Chapter 13

#90.00 CONT Trustee's Motion to Dismiss Case

From: 1/31/19, 2/7/19

EH__

Docket 35

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reginald D. Caldwell

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:18-14770 Lamar Ramon Benjamin

Chapter 13

#91.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lamar Ramon Benjamin

Represented By
Ethan Kiwhan Chin

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:18-15051 Rueben Anthony Castro and Adrian Marie Castro

Chapter 7

#92.00 Trustee's Motion to Dismiss Case re Delinquency

EH__

Docket 33

*** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
2/27/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rueben Anthony Castro

Represented By
Nicholas M Wajda

Joint Debtor(s):

Adrian Marie Castro

Represented By
Nicholas M Wajda

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:18-15541 Alejandro Guillen and Karla Guillen

Chapter 13

#93.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alejandro Guillen

Represented By
Neil R Hedtke

Joint Debtor(s):

Karla Guillen

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:17-11167 Victor Thomas Lawton

Chapter 13

#94.00 Trustee's Motion to Dismiss Case

EH__

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Victor Thomas Lawton

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:15-22294 Jonathan William Nicastro

Chapter 13

#95.00 Trustee's Motion to Dismiss Case

EH__

Docket 152

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jonathan William Nicastro

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, February 28, 2019

Hearing Room 303

11:01 AM

6:16-11652 Janel M Faulks

Chapter 13

#96.00 Trustee's Motion to Dismiss Case

EH ____

Docket 62

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Janel M Faulks

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:16-18082 Joseph John Vargas and Lydia Vargas

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 21341 Shakespeare Court, Moreno, Valley, California 92557

MOVANT: U.S. BANK NATIONAL ASSOCIATION

From: 2/5/19

EH__

Docket 104

Tentative Ruling:

02/05/2019
Service: Proper
Opposition: Yes

Parties to update Court regarding the status of APO negotiations, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joseph John Vargas

Represented By
Dana Travis

Joint Debtor(s):

Lydia Vargas

Represented By
Dana Travis

Movant(s):

U.S. Bank National Association

Represented By
Sean C Ferry

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

CONT... Joseph John Vargas and Lydia Vargas

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:17-15987 Frank Heredia and Virginia Heredia

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1943 Rainbow Ridge, Corona, California 92882

MOVANT: OCWEN LOAN SERVICING LLC

EH__

Docket 39

Tentative Ruling:

03/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT relief from § 1301 co-debtor stay. GRANT relief requested under ¶ 3. GRANT waiver of 4001(a)(3) stay. DENY request for APO if not granted.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Frank Heredia

Represented By
Laleh Ensafi

Joint Debtor(s):

Virginia Heredia

Represented By
Laleh Ensafi

Movant(s):

Ocwen Loan Servicing, LLC

Represented By
Kelsey X Luu

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

CONT... Frank Heredia and Virginia Heredia

Chapter 13

Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:17-16134 Gerardo Garibay

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 765 Attenborough Way, San Jacinto, CA 92583

MOVANT: U.S. BANK TRUST NATIONAL ASSOCIATION

EH__

Docket 39

Tentative Ruling:

03/05/2019

Service: Proper

Opposition: Withdrawn

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
GRANT relief requested pursuant to ¶3 of the prayer for relief.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Gerardo Garibay

Represented By
Alberto Carranza

Movant(s):

U.S. Bank Trust National

Represented By
Michelle R Ghidotti
Kristin A Zilberstein

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

CONT... Gerardo Garibay

Chapter 13

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-10248 Vaughn Stevens

Chapter 13

#4.00 Motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 79706 Parkway Esplanade South, La Quinta, CA 92253

MOVANT: CHARLES W. MORGAN REVOCABLE LIVING TRUST

EH ____

Docket 46

Tentative Ruling:

03/05/2019

Service: Proper

Opposition: Yes

Reply: Yes

The Debtor opposes the Motion on the grounds that (1) the Motion does not provide evidence of post-petition arrears and does not provide evidence of attorney fees and costs; (2) the Debtor has equity in the Property; and (3) the attorneys fees and costs are unreasonable.

In reply, the Movant asserts that (1) the declaration of the James Morgan as custodian records is evidence of the arrears; (2) § 362(d)(2) and the related issue of equity in the Property are not a basis for relief from stay by the Movant; and (3) Movant has provided in the Reply a breakdown of the costs incurred in connection with the Debtor's failure to make postpetition payments.

Having reviewed the pleadings, the Court agrees with the authorities and arguments of Movant. The postpetition arrears are sufficiently evidenced in the Motion and the failure to make those postpetition payments are cause for lifting of the stay under § 362(d)(1). The Debtor has failed to dispute the alleged failure to make postpetition payments and in fact, Debtor concedes he is in default. The issue regarding whether costs incurred by Movant are reasonable is not actually before this Court. A finding that the postpetition payments were not made suffices to grant the Motion.

Based on the foregoing, the Court is inclined to GRANT the Motion, including the

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

CONT... Vaughn Stevens Chapter 13

request for relief under ¶7 of the prayer for relief; and DENY the Motion only as to ¶
13 which is denied as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Vaughn Stevens

Represented By
Amanda G Billyard
Andy C Warshaw

Movant(s):

Charles W. Morgan Revocable

Represented By
Caroline Djang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-11770 Raymond Burrola and Estela Burrola

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Nissan Altima, VIN: 1N4AL3AP6DN489947

MOVANT: AMERICREDIT FINANCIAL SERVICES, INC

EH__

Docket 58

Tentative Ruling:

03/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
DENY APO as moot.

APPEARANCES WAIVED. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Raymond Burrola

Represented By
Elena Steers

Joint Debtor(s):

Estela Burrola

Represented By
Elena Steers

Movant(s):

AmeriCredit Financial Services, Inc.

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

CONT... Raymond Burrola and Estela Burrola

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-12099 James David Wilson, IV and Kerri Ann Wilson

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 18804 Hinton Street, Hesperia, California, 92345-6970

MOVANT: FREEDOM MORTGAGE CORPORATION

EH__

Docket 34

Tentative Ruling:

03/05/2019
Service: Proper
Opposition: Yes

The Debtor asserts more payments were made than were accounted for by the Movant. Certainly, a comparison of the Debtor's Supplement, the Movant's Declaration and Exhibit 4 indicate that at least one \$2,300 payment was made after the Movant received the \$2,369.11 payment in October. Much of the confusion is caused by the irregularity of the date the payments are sent out by the Debtors. The due date is the 18th of each month. However, payments are sent by the Debtors alternately at the beginning, middle and end of months. Nevertheless, based on the Debtor's evidence it appears that when the Motion was filed on February 6, 2019, Debtors would only have been late on their January payment.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

James David Wilson IV

Represented By
Dina Farhat

Joint Debtor(s):

Kerri Ann Wilson

Represented By
Dina Farhat

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

CONT... James David Wilson, IV and Kerri Ann Wilson

Chapter 13

Movant(s):

Freedom Mortgage Corporation

Represented By
Christina J O

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-13715 Jennifer Elaine Sackett

Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7538 Apache Trail, Yucca Valley, CA 92284

MOVANT: MIDFIRST BANK

EH__

Docket 41

Tentative Ruling:

03/05/2019
Service: Proper
Opposition: Yes

The Debtor's opposition offers evidence that the Debtor fell behind on her mortgage payments due to costs incurred as a result of a legal custody dispute. Debtor asserts that the dispute has now been resolved. Debtor further asserts that she expects a tax refund, additional income from a part time job, and increased child support payments which will enable her to come current within 90 days. While stay relief is warranted, the Court is inclined to enter an APO to permit the Debtor an opportunity to cure the post-petition arrears and to protect Movant from the expense of having to file additional motions for relief from stay. Parties to update the Court on APO discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jennifer Elaine Sackett

Represented By
Brian C Andrews

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

CONT... Jennifer Elaine Sackett

Chapter 13

Movant(s):

MidFirst Bank

Represented By
Gilbert R Yabes
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-14053 Wallace Stanton Miles

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2006 Ford F150, VIN: 1FTRX12W76KB27500

MOVANT: SANTANDER CONSUMER USA INC.

EH__

Docket 36

Tentative Ruling:

03/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
DENY APO request as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Wallace Stanton Miles

Represented By
Stuart G Steingraber

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-15192 Everett T Cain

Chapter 13

#9.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1110 West Menlo Avenue, Hemet, CA-92543

MOVANT: CITIBANK N.A.

From: 2/5/19

EH__

Docket 34

Tentative Ruling:

02/05/2019
Service: Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
GRANT request under ¶3 of prayer for relief and DENY request for APO as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Everett T Cain

Represented By
April E Roberts

Movant(s):

Citibank, N.A.

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-17677 Chadwick Otieno Ochieng and Christine Achieng Matoka

Chapter 13

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4123 Pearl Street, Lake Elsinore, CA 92530

MOVANT: MIDFIRST BANK

EH__

Docket 33

Tentative Ruling:

03/05/2019

Service: Proper

Opposition: Yes

Debtor has indicated an intent to cure arrears by the hearing date. Parties to confirm cure.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Chadwick Otieno Ochieng

Represented By
John F Brady

Joint Debtor(s):

Christine Achieng Matoka

Represented By
John F Brady

Movant(s):

MidFirst Bank, its assignees and/or

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

CONT... Chadwick Otieno Ochieng and Christine Achieng Matoka

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-19264 Lupita Meza Perez

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15715 Pine Bluff Court, Adelanto, CA 92301

MOVANT: GATEWAY MORTGAGE GROUP, LLC

EH__

Docket 24

Tentative Ruling:

03/05/2019
Service: Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1) for cause. There is insufficient adequate protection for the Movant under *In re Mellor*, 734 F.2d 1396 (9th Cir. 1984). DENY relief under § 362(d)(2) because there is equity in the Property. GRANT waiver of 4001(a)(3) stay and GRANT the requests under ¶¶ 3 and 12 of the prayer for relief.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Lupita Meza Perez	Pro Se
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Movant(s):

Gateway Mortgage Group, LLC	Represented By Nancy L Lee
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Trustee(s):

Howard B Grobstein (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-20285 Nicole R. Vinhateiro

Chapter 7

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Buick Verano, VIN: 1G4PP5SK1E4138339

MOVANT: AMERICREDIT FINANCIAL SERVICES INC.

EH__

Docket 18

Tentative Ruling:

03/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under §§ 362(d)(1) and (d)(2). GRANT waiver of 4001(a)(3) stay. DENY request for APO as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Nicole R. Vinhateiro

Represented By
Patricia M Ashcraft

Movant(s):

AmeriCredit Financial Services, Inc.

Represented By
Mandy D Youngblood
Jennifer H Wang

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-20404 Maria De Lourdes Gonzalez

Chapter 7

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 MINI Hardtop 4 Door Cooper S Hatchback 4D

MOVANT: BMW BANK OF NORTH AMERICA

EH__

Docket 17

Tentative Ruling:

03/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under §§ 362(d)(1) and (d)(2). GRANT waiver of 4001(a)(3) stay. DENY APO as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Maria De Lourdes Gonzalez

Represented By
Miguel A Valente

Movant(s):

BMW Bank of North America

Represented By
Cheryl A Skigin

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:18-20504 Brian K Listoe and Elsa Z Listoe

Chapter 7

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2008 Crownline 200 Ls Boat (JTC71075H708; 2008 Mercruiser engine (1A065450); 2008 Road Runner trailer (1U4RR20288T0771732)

MOVANT: SYSTEMS & SERVICES TECHNOLOGIES, INC.

EH__

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian K Listoe

Represented By
William J Howell

Joint Debtor(s):

Elsa Z Listoe

Represented By
William J Howell

Movant(s):

Systems & Services Technologies,

Represented By
Austin P Nagel

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:19-10057 Alvaro Xavier Fierro

Chapter 7

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Toyota Sienna

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH__

Docket 8

Tentative Ruling:

03/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under §§ 362(d)(1) and (d)(2). GRANT waiver of 4001(a)(3) stay.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Alvaro Xavier Fierro Pro Se

Movant(s):

Toyota Motor Credit Corporation, Represented By
Austin P Nagel

Trustee(s):

Arturo Cisneros (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:19-10180 Elizabeth T Baker

Chapter 7

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Kia Rio, VIN: KNADM4A34G6676459

MOVANT: SANTANDER CONSUMER USA INC

EH__

Docket 7

Tentative Ruling:

03/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under §§ 362(d)(1) and (d)(2). GRANT waiver of 4001(a)(3) stay. DENY APO as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Elizabeth T Baker

Represented By
Nancy Korompis

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:19-10990 David Sandoval and Mary Celine Sandoval

Chapter 13

#17.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 35816 Country Ridge Road, Yucaipa, CA 92399 and as to All other Creditors.

MOVANT: DAVID AND MARY CELINE SANDOVAL

EH__

Docket 20

Tentative Ruling:

03/05/2019

Service: Proper

Opposition: Yes

As a threshold matter, the Debtors indicated that the Motion was served on regular notice. It was not. The Motion was filed on February 13, 2019. Regular notice on a Motion filed on that date would not have run until March 6, 2019. The opposition was then filed on February 25, 2019, by Secured Creditor Wilmington Trust ("Creditor").

Creditor asserts that the Debtors' prior case was dismissed due to the Debtors' inability to perform as to the terms of the confirmed plan. The dismissal was precipitated by Wilmington Trust's notification to the Trustee that the Debtors were not current on their post-petition payments which eventually formed the basis for the dismissal of the prior case.

The presumption that the case was not filed in good faith arises due to the failure to perform the terms of the confirmed plan in their prior case. To overcome the presumption, the Debtors assert they now have sufficient income to fund a feasible plan because (1) Debtor Wife has experienced an increase in income of \$700 per month, (2) Debtor Wife's parents are contributing \$1,200 per month to the Debtors; (3) Debtors are no longer supporting their children because they have now graduated from college. The Motion is supported only by the declaration of the Debtor.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

CONT... David Sandoval and Mary Celine Sandoval

Chapter 13

Creditor in its opposition asserts that the statements regarding the Debtors' family contributions are unsupported by any evidence and the Court agrees. Section 362(c)(3) explicitly requires clear and convincing evidence to overcome the presumption that the case was not filed in good faith. In reply, the Debtors have provided a declaration from the Debtors' family members asserting that they will contribute \$1,200 monthly for 60 months towards the Debtors' plan. The Declaration further indicates that the Robert and Ann Sroufe are currently residing with the Debtors.

Based on the supplemental evidence, the Court is inclined to find that the Debtors have sufficiently improved their financial condition to warrant a finding that by clear and convincing evidence the presumption under § 362(c)(3) has been overcome. However, the Court believes a stay-current APO is warranted under the circumstances.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David Sandoval

Represented By
Bryant C MacDonald

Joint Debtor(s):

Mary Celine Sandoval

Represented By
Bryant C MacDonald

Movant(s):

David Sandoval

Represented By
Bryant C MacDonald

Mary Celine Sandoval

Represented By
Bryant C MacDonald

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

6:19-11121 David Vogel

Chapter 13

#18.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 3296 El Nido Ave., Perris, CA 92571

MOVANT: DAVID VOGEL

EH__

Docket 12

Tentative Ruling:

03/05/2019

The prior case was dismissed at the confirmation hearing. The Trustee indicated on the record that the case should be dismissed based on the following: (1) No funds were tendered, (2) the Debtor did not appear at the 341(a) Meeting of Creditors, (3) no declaration regarding postpetition mortgage payments was filed, and (4) Debtor did not provide Trustee with addresses for conduit payments. The Trustee requested a straight dismissal.

To address the dismissal of the prior case, Debtor's motion asserts that he did not have sufficient funds to make both the initial plan payment and the postpetition mortgage payment at the same time. Debtor asserts in his declaration that this time around he has sufficient funds on hand to make the initial required payments.

The Debtor's declaration is consistent with the record of the dismissal at the confirmation hearing. Here, the presumption that the case was not filed in good faith does not arise and Debtor has provided sufficient evidence to warrant continuance of the stay.

Based on the foregoing, the Court is inclined to GRANT the Motion continuing the automatic stay as to AmeriHome Mortgage only as it was the only creditor served.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

10:00 AM

CONT... David Vogel

Chapter 13

Debtor(s):

David Vogel

Represented By
Neil R Hedtke

Movant(s):

David Vogel

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

2:00 PM

6:16-19993 B & B Family, Incorporated

Chapter 11

Adv#: 6:18-01116 Forte v. B & B Family, Incorporated

#19.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01116. Complaint by Patricia Forte against B & B Family, Incorporated

From: 7/24/18, 7/31/18, 10/9/18, 10/16/18, 11/27/18, 1/29/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/30/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B & B Family, Incorporated

Represented By
Todd L Turoci
Julie Philippi

Defendant(s):

B & B Family, Incorporated

Represented By
Todd L Turoci

Plaintiff(s):

Patricia Forte

Represented By
D Edward Hays
Laila Masud

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

2:00 PM

6:16-19993 B & B Family, Incorporated

Chapter 11

#20.00 CONT Joint Motion for Order Approving Compromise of Controversy Which Includes Reorganized Debtor Selling Its Business

From: 1/29/19

Also #21

EH__

Docket 211

***** VACATED *** REASON: COURT GRANTED PER RECORD AT HEARING ON 2/13/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B & B Family, Incorporated

Represented By
Todd L Turoci
Julie Philippi

Movant(s):

Patricia Forte

Represented By
D Edward Hays

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

2:00 PM

6:16-19993 B & B Family, Incorporated

Chapter 11

#21.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 12/13/16, 3/7/17, 5/30/17, 7/25/17, 9/26/17, 10/31/17, 11/7/17, 5/15/18,
8/21/18, 1/15/19

Also #20

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B & B Family, Incorporated

Represented By
Todd L Turoci
Julie Philippi

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

2:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#22.00 CONT Motion for approval of the adequacy of the chapter 11 disclosure statement

From: 1/29/19

Also #23

EH__

Docket 111

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

Movant(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

2:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#23.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 10/23/18, 11/27/18, 1/29/19

Also #22

EH__

Docket 96

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

2:00 PM

6:18-20003 LC Stahl LLC

Chapter 11

#24.00 CONT Motion for Relief from Stay Automatic Stay Under 11 U.S.C. Section 362
(with supporting declarations) (Real Property)

MOVANT: LOAN FUNDER LLC, SERIES 1829

From: 2/26/19

Also #25

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

Movant(s):

Loan Funder LLC, Series 1829

Represented By
Jeffrey N Brown

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

2:00 PM

6:18-20003 LC Stahl LLC

Chapter 11

#25.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report
(HOLDING DATE)

From: 1/8/19, 2/26/19

Also #24

EH ____

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

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Central District of California
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Hearing Room 303

2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

#26.00 Motion to Allow Claim 9,10,11 Approve Temporary Allowance Under FRBP 3018(a)

Also #27 & #28

EH__

Docket 152

Tentative Ruling:

MARCH 5, 2019

BACKGROUND

On March 27, 2018, G Hurtado Construction, Inc. ("Debtor") filed its petition for chapter 11 relief. The bankruptcy was precipitated by a wage and hour lawsuit brought by two and possibly more former employees. Catana and Faustino v. G Hurtado Construction, Inc. On May 9, 2018, the Debtor issued a Notice of Bar Date indicating that the Court set a deadline of July 13, 2018 ("Bar Date"), for creditors to file proofs of claims against the Debtor's estate.

On July 16, 2018, the following claims were filed: Claim #9 by Donahoo & Associates, PC in the amount of \$134,475.02, Claim #10 by Juan Catano in the amount of \$230,081.64, Claim #11 by Faustino Magana in the amount of \$101,240.04 (collectively, "Litigation Claimants")

On August 29, 2018, the Litigation Claimants filed a motion to allow their late-filed claims. On October 10, 2018, the Court granted the motion and entered its order allowing Claims 9, 10, and 11 (the "Disputed Claims"). Following the allowance of the Disputed Claims, the Debtor filed an amended disclosure statement and plan to provide for treatment of the Disputed Claims on October 9, 2018. Following comments from the Court regarding the Debtor's First Amended Disclosure Statement, the Debtor filed the Second Amended Disclosure Statement and Plan on November 16, 2018. On November 27, 2018, the Litigation Claimants filed a motion for relief from the automatic stay ("RFS Motion") seeking to have the Disputed Claims determined via an arbitration proceeding which had been commenced prepetition. On December 3, 2018, the Debtor filed a complaint against the Litigation Claimants objecting to their claims (the "Objection"). On December 18, 2018, a hearing was held at which the Court approved the Debtor's Second Amended DS and granted in part and denied in part the RFS Motion. On January 2, 2019, the

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CONT... G Hurtado Construction, Inc.

Chapter 11

Court entered its Order approving the Second Amended DS and providing deadlines for balloting and objections (the "Order"). The Order required that objections to the plan be filed no later than February 19, 2019, and that completed ballots were due returned by January 22, 2019. On January 3, 2019, the Litigation Claimants and Debtor stipulated to holding the Objection proceeding in abeyance pending the conclusion of the arbitration. The Court entered its order approving the stipulation on February 4, 2019. On February 4, 2019, the Debtor filed its Brief in Support of Confirmation (the "Brief"). The Brief indicated, in pertinent part, that Class 6 members, the Class designated for treatment of the Litigation Claimants' Disputed Claims were not eligible to vote under § 1126 based on the filing of the Objection.

On February 12, 2019, a Motion to Temporarily Allow the Disputed Claims under FRBP 3018(a) followed (the "Motion"). Opposition to the Motion was filed on February 19, 2019 ("Opposition"), and a reply to the Opposition was filed on February 26, 2019 ("Reply").

DISCUSSION

Section 1126(a) of the Bankruptcy Code provides that only holders of allowed claims or interests may vote to accept or reject a plan. Section 502(a) of the Bankruptcy Code provides that a claim is deemed allowed unless a party in interest objects. A creditor whose claim is objected to "is therefore disenfranchised from voting on the plan unless the objection is adjudicated prior to plan voting, or a mechanism, such as temporary allowance, is provided for." *In re Stone Hedge Props. v. Phoenix Capital Corp.* (In re Stone Hedge Props.), 191 B.R. 59, 63 (Bankr.M.D.Pa.1995). The mechanism for temporary allowance is provided by Bankruptcy Rule 3018. The policy behind temporary allowance is to prevent possible abuse by plan proponents who might ensure acceptance of a plan by filing last minute objections to the claims of dissenting creditors. *In re Armstrong*, 294 B.R. 344 (10th Cir.BAP2003), aff'd 97 Fed. Appx. 285 (10th Cir.2004). The ultimate determination of whether to temporarily allow a claim for voting purposes is within the Court's sound discretion. *Id.*; *In re Ralph Lauren Womenswear, Inc.*, 197 B.R. 771, 775 (Bankr.S.D.N.Y.1996). Like estimation under section 502, neither the Bankruptcy Code nor the Bankruptcy Rules provide guidance on a methodology to be used but commend the determination to the court's discretion. *In re Pac. Sunwear of California, Inc.*, 2016 WL 4250681, at *3 (Bankr. D. Del. Aug. 8, 2016) (internal citations omitted). Courts tend to look at the debtor's schedules, the proof of claim, and the objection filed to the proof of claim. *Id.* At least one court has suggested that a determination under Rule 3018 "should ensure that the voting power is commensurate with the creditor's economic interests in the case." *Id.*

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CONT... **G Hurtado Construction, Inc.**

Chapter 11

As a threshold matter, FRBP 3018 is silent regarding the appropriate deadline for parties to bring a motion to temporarily allow a claim for purposes of voting. In *In re M. Long Arabians*, the trial court had indicated that since a creditor did not seek temporary allowance of its claim, pursuant to Bankruptcy Rule 3018(a)(2), prior to the confirmation hearing, that creditor's claim was deemed not allowed under Section 502(a). 103 B.R. 211, 214 (B.A.P. 9th Cir. 1989). On appeal, the BAP affirmed the trial court's finding and stated that the creditor could not have voted on the Plan unless it sought a *timely* allowance of its claims under Bankruptcy Rule 3018. *Id.* at 215 (internal citations omitted). Similarly, in *Jacksonville Airport, Inc. v. Michkeldel, Inc.*, the Fourth Circuit considered the issue of timing where a motion for temporary allowance of a claim was not filed until after the deadline for voting on the plan. 434 F.3d 729, 732 (4th Cir. 2006). In that case, the Fourth Circuit affirmed the trial court's order denying a motion to reconsider the confirmation order finding that the creditor did not have a right to vote on the debtor's plan, and implicitly finding that the motion for temporary allowance must be filed prior to the deadline for voting. *See id.*

For their part, the Litigation Claimants have cited to cases outside the Ninth Circuit in which trial court judges focused heavily on the equities facing the creditors seeking temporary allowance rather than any strict timelines. Debtor, however, responds that *Stone Hedge Properties v. Phoenix Capital Corp. (In re Stone Hedge Properties)*, 191 B.R. 59 (Bankr. M.D. Pa. 1995) ("Stone Hedge") and *In re Goldstein*, 114 BR 430, 434 (Bankr. E.D. Pa. 1990) both dealt with situations where the creditors were being ambushed by the debtors.

Here, the Court is simply not persuaded that the Litigation Claimants' position is defensible. As an aside, the Court was indulgent when the Litigations Claimants filed their Disputed Claims after the bar date and, in that situation, found sufficient cause existed to excuse the failure to timely file the claims. However, where here, the Litigation Claimants have actively participated in objecting to their treatment by the Debtor from the inception of the case and where they filed oppositions to Debtor's proposed disclosure statements and a RFS Motion, there is no apparent basis to excuse the Litigation Claimants from their responsibility to have apprised themselves of their own duties with respect to voting – a vote that they undoubtedly always intended to exercise. Further, unlike the cases cited by the Litigation Claimants, the Objection was filed in early December and it was the Litigations Claimants' responsibility to apprise themselves of the consequences engendered by the filing of the Objection. Having considered the equities presented by both sides and the legal authorities, the Court is persuaded that (1) absent evidence that a debtor's objection was filed so close in time to the confirmation hearing such that the effect would have been to ambush the creditor, a motion to temporarily allow a claim must be filed and heard prior to the deadline to cast a vote; and (2) here, the record indicates that the

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CONT... G Hurtado Construction, Inc.
creditor was not ambushed.

Chapter 11

TENTATIVE RULING

Based on the foregoing, the Court is inclined to DENY the Motion for temporary allowance.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

Movant(s):

Donahoo & Associates, PC

Represented By
Richard E Donahoo

Faustino Magana

Represented By
Richard E Donahoo

Juan Catano

Represented By
Richard E Donahoo

United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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6:18-12807 G Hurtado Construction, Inc.

Chapter 11

#27.00 Confirmation of Chapter 11 Plan

Also #26 & #28

EH__

Docket 105

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

#28.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 5/8/18, 8/21/18, 9/11/18, 9/25/18, 10/30/18, 11/6/18, 12/18/18

Also #26 & #27

EH__

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

**United States Bankruptcy Court
Central District of California
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Tuesday, March 5, 2019

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2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#29.00 CONT Application to Employ Shulman Hodges & Bastian LLP as General
Bankruptcy Counsel

From: 11/27/18, 12/18/18, 1/29/19

Also #30 & #31

EH__

Docket 45

Tentative Ruling:

11/27/2018

DISCUSSION

"[I]t is clear that the bankruptcy court has broad discretion over the appointment of professionals." *In re Seeburg Prods. Corp.*, 215 B.R. 175, 178 (Bankr. N.D. Ill. 1997). A violation of the rules of professional responsibility can be sufficient reason to disqualify a proposed counsel from being employed in a case. *See, e.g., In re Universal Bldg. Prods.*, 486 B.R. 650, 661 (Bankr. D. Del. 2010) (collecting cases).

"An attorney retained by the trustee, or debtor in possession, who assists with the collection of the assets of the estate, must abide by the highest professional standards." *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 840 (Bankr. C.D. Cal. 1991) "Not honesty alone, but the punctilio of an honor the most sensitive, is the standard of behavior." *Meinhard v. Salmon*, 164 N.E. 545, 546 (N.Y. 1928).

"[A] debtor who proposes a sale of all of its assets . . . must fully disclose to the court

**United States Bankruptcy Court
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CONT... **Technology Solutions & Services, Inc., a Californi**

Chapter 11

and creditors the relationship between the buyer and seller, as well as the circumstances under which the negotiations have taken place, any marketing efforts, and the factual basis upon which the debtor determined that the price was reasonable." *In re Wilde Horse Enters., Inc.*, 136 B.R. at 842. *In re Wilde Horse Enters., Inc.*, continued on to state:

The Court finds from the evidence before it that Ms. Bernstein either (1) knew of the collusive and undisclosed relationships in this case and knowingly participated in misleading the Court and creditors; or (2) didn't know of the collusive and undisclosed relationships in this case, and is therefore wholly incompetent because she insisted on remaining ignorant of the facts and law applicable to her case notwithstanding the numerous indicia of questionable conduct along the way. Whether Ms. Bernstein's acts were wrongful, willfully incompetent or grossly negligent is not important to the determination here. Under either case, the Court concludes her fees must be denied in their entirety [sic], she should not be permitted to represent debtors in possession before any bankruptcy court, and her conduct in this case must be referred to the State Bar of California for disciplinary proceedings.

Id. at 847.

In the instant case, it appears Applicant failed to act with honesty and candor in relation to the sale of substantially all of the estate's assets. Specifically, notwithstanding Applicant's duty to the Court, Applicant failed to disclose a material side deal which was pertinent to the terms of the sale under review, and Applicant even stated at the hearing it was not Applicant's job to make such disclosure. Applicant's conduct in this case has fallen short of complying with the rules of professional conduct and has obstructed the Court's review of the primary matter in this case, the sale of substantially all of Debtor's assets. Given that such conduct is clearly adequate to disallow Applicant's fees in their entirety, the Court is inclined to find that authorizing the employment of Applicant would be a frivolous exercise.

TENTATIVE RULING

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

CONT... Technology Solutions & Services, Inc., a Californi

Chapter 11

The Court is inclined to DISALLOW the application.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
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Tuesday, March 5, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#30.00 CONT Disclosure Statement for Chapter 11 Liquidating Plan Proposed by the Debtor

From: 12/18/18, 1/29/19

Also #29 & #31

EH__

Docket 124

Tentative Ruling:

03/05/2019

Contingent on the final resolution of the issues related to Counsel for Debtor's Employment Application, the Court has reviewed the First Amended Disclosure Statement (FADS), service was proper, and no objections to the FADS were filed. The Court finds that the FADS contains adequate information as required under 11 U.S.C. § 1125.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 5, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#31.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 11/6/18, 12/18/18, 1/29/19

Also #29 & #30

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 6, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01214 Pringle v. Histen, APC et al

#1.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01214. Complaint by John Pringle against Harry J Histen, APC, Harry J Histen, III. (Charge To Estate - \$350.00). Complaint for: (1) Avoidance of Transfers Pursuant to 11 U.S.C. § 544(b) and Cal. Civ. Code §§ 3439.04(a)(2), 3439.05; (2) Avoidance of Transfers Pursuant to 11 U.S.C. § 548(a)(1)(B); (3) Recovery of Avoided Transfers Pursuant to 11 U.S.C. § 550; and (4) Disallowance of Claims Pursuant to 11 U.S.C. § 502 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Goe, Robert)

From: 1/9/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/8/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Harry J Histen, APC

Pro Se

Harry J Histen, III

Pro Se

Plaintiff(s):

John Pringle

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Wednesday, March 6, 2019

Hearing Room 303

2:00 PM

6:18-17663 Stephen Richard Morales

Chapter 7

Adv#: 6:18-01242 Forniss et al v. Morales et al

#2.00 Status Conference RE: [1] Adversary case 6:18-ap-01242. Complaint by Steven John Forniss against Stephan Richard Morales, Diane Forniss Morales, Todd Turoci. 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)) (Firman, Fritz)

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/13/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Stephen Richard Morales

Represented By
Todd L Turoci

Defendant(s):

Stephan Richard Morales

Pro Se

Diane Forniss Morales

Pro Se

Joint Debtor(s):

Diane Forniss Morales

Represented By
Todd L Turoci

Plaintiff(s):

Stephen Forniss

Represented By
Fritz J Firman

Alfonso Forniss

Represented By
Fritz J Firman

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

10:00 AM

6:18-20741 Frank Stephan Trautmann and Jirapa Trautmann

Chapter 7

**#1.00 Pro se Reaffirmation Agreement Between Debtor and Alaska USA Federal
Credit Union re 2015 Jeep Cherokee**

EH__

Docket 17

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Stephan Trautmann

Represented By
Daniel King

Joint Debtor(s):

Jirapa Trautmann

Represented By
Daniel King

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, March 13, 2019

Hearing Room 303

10:00 AM

6:18-20627 Joseph Albert Stamas, Jr. and Markita Marie Stamas

Chapter 7

#2.00 Reaffirmation Agreement Between Debtor and San Diego County Credit Union
re 2012 Chrysler Town & Country

Also #3

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Albert Stamas Jr.

Represented By
Stephen H Darrow

Joint Debtor(s):

Markita Marie Stamas

Represented By
Stephen H Darrow

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, March 13, 2019

Hearing Room 303

10:00 AM

6:18-20627 Joseph Albert Stamas, Jr. and Markita Marie Stamas

Chapter 7

#3.00 Pro se Reaffirmation Agreement Between Debtor and Navy Federal Credit Union re 2006 Lexus

Also #2

EH__

Docket 16

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Albert Stamas Jr.

Represented By
Stephen H Darrow

Joint Debtor(s):

Markita Marie Stamas

Represented By
Stephen H Darrow

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, March 13, 2019

Hearing Room 303

10:00 AM

6:18-20446 Armando Gonzalez

Chapter 7

#4.00 Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation re 2018 Toyota Camry

EH__

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Armando Gonzalez

Pro Se

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, March 13, 2019

Hearing Room 303

10:00 AM

6:18-20204 Ryan Karlsson and Tiffany Miller

Chapter 7

#5.00 Pro se Reaffirmation Agreement Between Debtor and LDS Financial Credit Union re 2017 Chevrolet Suburban

Also #6

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Karlsson

Represented By
Mark D Edelbrock

Joint Debtor(s):

Tiffany Miller

Represented By
Mark D Edelbrock

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, March 13, 2019

Hearing Room 303

10:00 AM

6:18-20204 Ryan Karlsson and Tiffany Miller

Chapter 7

#6.00 Reaffirmation Agreement Between Debtor and CarMax Auto Finance re 2015 Ford Fusion Hybrid

Also #5

EH__

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Karlsson

Represented By
Mark D Edelbrock

Joint Debtor(s):

Tiffany Miller

Represented By
Mark D Edelbrock

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

10:00 AM

6:18-20131 Oscar Manuel Garcia Velasco and Martha Guadalupe

Chapter 7

#7.00 Pro se Reaffirmation Agreement Between Debtor and Santander Consumer USA Inc. re 17 Nissan Sentra

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Manuel Garcia Velasco

Represented By
Marlin Branstetter

Joint Debtor(s):

Martha Guadalupe Sanchez

Represented By
Marlin Branstetter

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, March 13, 2019

Hearing Room 303

10:00 AM

6:18-19444 Flor Flores

Chapter 7

#8.00 Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation re 2014 Toyota Corolla

EH__

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Flor Flores

Pro Se

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

10:00 AM

6:18-18827 Myloan Thi Truong

Chapter 7

#9.00 Pro se Reaffirmation Agreement Between Debtor and Lakeview Loan Servicing, LLC by LoanCare, LLC as attorney-in-fact under a limited Power of Attorney

EH__

Docket 21

***** VACATED *** REASON: HEARING SET IN ERROR**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Myloan Thi Truong

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:16-18319 YBF Tax, Inc.

Chapter 7

#10.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 70

Tentative Ruling:

3/13/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee and Counsel for the Trustee, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 3,980.42
Trustee Expenses: \$ 48.95

Attorney Fees: \$ 26,415.67
Attorney Costs: \$ 305.73

Accountant Fees: \$10,276.81
Accountant Costs: \$327.37

Franchise Tax Board: \$1,244.76

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

YBF Tax, Inc.

Represented By
Ronald W Ask

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

CONT... YBF Tax, Inc.

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Represented By
Lovee D Sarenas

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:16-10197 Ferdinand D Castillo

Chapter 7

#11.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 102

Tentative Ruling:

3/13/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee and Counsel for the Trustee, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 27,029.62
Trustee Expenses: \$ 997.20

Attorney Fees: \$ 21,767

Tax Preparer Fee: \$1,000

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Ferdinand D Castillo

Represented By
Walter Scott

Trustee(s):

Arturo Cisneros (TR)

Represented By
William Malcolm

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

CONT...

Ferdinand D Castillo

Christina J O

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:18-14560 Nancy S Quiroz Velazquez

Chapter 7

#12.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 32

Tentative Ruling:

3/13/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 375.00
Trustee Expenses: \$ 29.10

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Nancy S Quiroz Velazquez

Represented By
Salvatore Bommarito

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:17-17820 Saul Mena, Jr.

Chapter 7

#13.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 24

Tentative Ruling:

3/13/19

No opposition has been filed.
Service was Proper.

The applications for compensation of the has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,129.71
Trustee Expenses: \$ 0.00

The amounts above reflect a reduction of the entirety of the requested expenses because Trustee has not submitted any evidence to justify or detail the requested expenses.

APPEARANCES REQUIRED. Trustee may decline to appear and will be deemed to submit to the tentative. Trustee also may provide a supplemental declaration prior to the hearing.

Party Information

Debtor(s):

Saul Mena Jr.

Represented By
Daniel King

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:16-20320 Joyce Miller Black

Chapter 7

#14.00 Notice of Trustee's Final Report and Applications for Compensation

EH __

Docket 25

Tentative Ruling:

3/13/2019

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 265.46
Trustee Expenses: \$ 133.34

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Joyce Miller Black

Represented By
George P Hobson Jr

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:16-19934 Juan Mancilla

Chapter 7

#15.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 22

Tentative Ruling:

3/13/19

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee and Counsel for the Trustee, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 438.87
Trustee Expenses: \$ 0.00

The amounts above reflect a reduction of the entirety of the requested expenses because Trustee has not provided any evidence to justify or detail the requested expenses.

APPEARANCES REQUIRED. Trustee may decline to appear and will be deemed to submit to the tentative. Trustee also may provide a supplemental declaration prior to the hearing.

Party Information

Debtor(s):

Juan Mancilla

Represented By
Todd L Turoci

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

CONT... Juan Mancilla

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:19-11517 Tatiana Noemi Alegre

Chapter 7

#16.00 Notice of Motion and 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) 17253 Emerson Street, Victorville, CA 92394

MOVANT: FRPA TRUST

EH__

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tatiana Noemi Alegre	Pro Se
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Movant(s):

FRPA Trust	Represented By Joshua L Scheer
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Trustee(s):

Howard B Grobstein (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:18-15065 Bruce Bestul and Geraldine Bestul

Chapter 7

#17.00 Motion to Vacate Discharge Order To Approve Reaffirmation Agreement

EH__

Docket 20

Tentative Ruling:

3/13/2019

BACKGROUND

On June 15, 2018, Bruce & Geraldine Bestul ("Debtors") filed a Chapter 7 voluntary petition. On September 24, 2018, Debtors received a discharge, and their case was closed the next day.

On October 31, 2018, Debtors filed a motion to reopen case in order to amend their schedules. On November 26, 2018, Debtors' case was reopened. Debtors never filed amended schedules but, one day before their case was set to be closed again, Debtors filed a motion to vacate discharge to approve reaffirmation agreement. On February 13, 2019, the Court set the matter for hearing.

DISCUSSION

As noted by the Court in its order setting hearing, the clear majority of the caselaw holds that a debtor cannot vacate a discharge to enter into a reaffirmation agreement. *See, e.g., In re Judson*, 586 B.R. 771, 773 (Bankr. C.D. Cal. 2018); *In re Mardy*, 2011 WL 917545 (Bankr. E.D.N.Y. 2011); *In re Wilhelm*, 369 B.R. 882 (Bankr. M.D.N.C. 2007); *In re Rigal*, 254 B.R. 145, 147-48 (Bankr. S.D. Tex. 2000). The caselaw cited

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

CONT... Bruce Bestul and Geraldine Bestul Chapter 7

by Debtors in their motion does not indicate otherwise. *Disch v. Rasmussen*, 417 F.3d 769 (7th Cir. 2005) does not deal with reaffirmation agreements at all, and *In re Solomon*, 15 B.R. 105 (Bankr. E.D. Pa. 1981) has been generally disagreed with by subsequent caselaw.

The Court provided Debtors with an opportunity to file a supplemental brief in support of their request. Debtors have not filed any supplemental brief. Therefore, the Court is inclined to hold, as a matter of law, that Debtors are not permitted to vacate their discharge to enter into a reaffirmation agreement.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Bruce Bestul

Represented By
Lionel E Giron

Joint Debtor(s):

Geraldine Bestul

Represented By
Lionel E Giron

Movant(s):

Bruce Bestul

Represented By
Lionel E Giron

Geraldine Bestul

Represented By
Lionel E Giron

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

CONT... Bruce Bestul and Geraldine Bestul

Chapter 7

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:15-21418 James Lloyd Walker

Chapter 7

#18.00 Application for Compensation First Interim Application of Best Best & Krieger LLP For Allowance of Fees and Reimbursement of Costs for Caroline Djang, Trustee's Attorney, Period: 3/21/2016 to 2/5/2019, Fee: \$41,094.50, Expenses: \$2,029.69.

EH__

Docket 146

***** VACATED *** REASON: AMENDED APPLICATION SET FOR
3/27/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth

Movant(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

Trustee(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:13-23186 Richard C Cox, Jr

Chapter 7

#19.00 CONT Motion for Turnover of Insurance Renewal Commissions

From: 8/22/18, 9/12/18, 11/14/18, 1/16/19

EH __

Docket 150

*** VACATED *** REASON: CONTINUED TO 5/22/19 AT 11:00 A.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard C Cox Jr

Represented By
Summer M Shaw

Movant(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

Trustee(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:12-33455 Sergio Reyes and Maria De Los Angeles Reyes

Chapter 7

#20.00 Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) - Motion for Order: (1) Authorizing Sale of Estates Right, Title and Interest in Real Property Free and Clear of Liens; (2) Approving Overbid Procedure; (3) Approving Payment of Real Estate Brokers Commissions; and (4) Finding Purchaser is a Good Faith Purchaser

EH ____

Docket 124

Tentative Ruling:

3/13/19

BACKGROUND

On October 17, 2012, Sergio & Maria Reyes ("Debtors") filed a Chapter 13 voluntary petition. On February 13, 2013, Debtors' Chapter 13 plan was confirmed. When Debtors reached the end of their Chapter 13 plan, the plan had not been completed according to its terms, and the Chapter 13 trustee filed a motion to dismiss if the payoff amount of \$4,137 was not received. On October 6, 2017, one week after the filing of the motion to dismiss, Debtors filed a notice of conversion to Chapter 7. On November 28, 2017, Debtors filed a motion to convert back to Chapter 13; that motion was denied on December 27, 2017.

On June 6, 2018, the Court approved a compromise between Debtors and the Chapter 7 Trustee. Pursuant to the terms of the compromise, Debtors were to purchase the estate's interest in certain property, including certain real property located at 600 N. Hollow Ave., West Covina, CA 91790 (the "Property"), for the amount of \$108,500, payable within ninety days of the entry of the order. Ultimately, Debtors did not tender the settlement payment.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

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11:00 AM

CONT... Sergio Reyes and Maria De Los Angeles Reyes

Chapter 7

On February 20, 2019, Trustee filed a motion for an order: (1) authorizing sale of estate' right, title and interest in real property free and clear of liens; (2) approving overbid procedures; (3) approving payment of real estate commissions; and (4) finding purchaser is a good faith purchaser. Trustee proposes to sell the property to Trung Le (the "Purchaser") for \$525,000. Proposed payments from the proceeds include: (1) \$42,000 for closing costs; and (2) \$275,472.11 for World Savings (i.e. Wells Fargo Bank, N.A.), leaving \$207,527.89 for the bankruptcy estate. On February 25, 2019, Wells Fargo Bank, N.A., filed a conditional non-opposition, requesting certain language be included in the sale order.

DISCUSSION

I. Sale of Estate Property

11 U.S.C. § 363(b)(1) allows a trustee to sell property of the estate outside of the ordinary course, after notice and a hearing. A sale pursuant to § 363(b) requires a demonstration that the sale has a valid business justification. *In re 240 North Brand Partners, Ltd.*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996). "In approving any sale outside the ordinary course of business, the court must not only articulate a sufficient business reason for the sale, it must further find it is in the best interest of the estate, i.e. 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." *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal.).

The motion contains some evidence of the Property's marketing. Given the fact that the sale appears to be a good faith, arms-length transaction, and the fact that it appears that the sale will result in a surplus estate, the Court concludes that Trustee has articulated an adequate business reason for the sale.

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11:00 AM

CONT... Sergio Reyes and Maria De Los Angeles Reyes

Chapter 7

II. Sale Free & Clear of Liens

11 U.S.C. § 363(f) (2010) states:

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if-

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

Here, the only lien on the Property is the first mortgage originally held by World Savings Bank, FSB, now held by Wells Fargo Bank, N.A.. The amount of this lien, \$275,472.11, is far less than the sale price of the Property and, therefore, § 363(f)(3) permits Trustee to sell the Property free and clear of liens.

III. 14-Day Stay

FED. R. BANKR. P. Rule 6004(h) states: "An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Court deems the absence of

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11:00 AM

CONT... **Sergio Reyes and Maria De Los Angeles Reyes** **Chapter 7**

objections to be consent to the relief requested, pursuant to Local Rule 9013-(1)(h), and, therefore, will waive the stay of Rule 6004(h).

IV. Miscellaneous Provisions

The Court has reviewed the remainder of Trustee's miscellaneous requests. The Court has reviewed the proposed overbidding procedures and finds such procedures to be reasonable. The Court has reviewed the requested Broker compensation of 6% of the sale price (totaling \$31,500) and finds such compensation to be reasonable and customary. The Court has reviewed Trustee's proposed distribution of sale proceeds, and the Court finds that such distribution is reasonable and proper.

Finally, the Court has reviewed the declaration of the Purchaser, and finds the declarations sufficient for a determination that Purchaser is a good faith purchaser pursuant to 11 U.S.C. § 363 (m).

TENTATIVE RULING

The Court is inclined to GRANT the motion in its entirety. Specifically, the Court is inclined to authorize the sale of the Property free and clear of liens, approve the overbid procedures, approve the Broker's compensation, determine that the Purchasers are good faith purchasers, waive the 14-day stay under Rule 6004(h), and authorize the proposed payments from the sale proceeds. Sale order to include the language requested by Wells Fargo.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

11:00 AM

CONT... Sergio Reyes and Maria De Los Angeles Reyes

Chapter 7

Debtor(s):

Sergio Reyes

Represented By
Patricia A Mireles

Joint Debtor(s):

Maria De Los Angeles Reyes

Represented By
Patricia A Mireles

Movant(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

Trustee(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

11:00 AM

6:12-27237 Joanna Martinez Canfield

Chapter 7

#21.00 Motion to Reopen Chapter 7 Case

EH__

Docket 22

Tentative Ruling:

3/13/19

BACKGROUND

On July 24, 2012, Joanna Canfield ("Debtor") filed a Chapter 7 voluntary petition. On November 5, 2012, Debtor received a discharge, and the case was subsequently closed.

On March 13, 2019, Debtor filed a motion to reopen case in order to file a motion to avoid lien. No opposition to the motion has been received by the Court.

DISCUSSION

11 U.S.C. § 350(b) states: "A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause." Debtor's motion indicates that she wishes to reopen the case to attempt to file a motion to avoid lien.

Motions to reopen bankruptcy cases "should be routinely granted." *In re Dodge*, 138

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11:00 AM

CONT... Joanna Martinez Canfield

Chapter 7

B.R. 602, 605 (Bankr. E.D. Cal. 1992). "While the Code does not define 'other cause' for purposes of reopening a case under section 350(b), the decision to reopen is discretionary with the court, which may consider numerous factors, including equitable concerns, and ought to emphasize substance over technical considerations." 3 COLLIER ON BANKRUPTCY ¶ 350.03[5] (16th ed. 2016). This Court routinely grants motions to reopen to allow debtors to file motions to avoid liens, as the avoidance of such lien could be characterized as affording relief to the debtor.

TENTATIVE RULING

The Court is inclined to GRANT the motion and REOPEN the case for a period of ninety days.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Joanna Martinez Canfield

Represented By
Brian J Soo-Hoo

Movant(s):

Joanna Martinez Canfield

Represented By
Brian J Soo-Hoo
Brian J Soo-Hoo

Trustee(s):

Helen R. Frazer (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, March 13, 2019

Hearing Room 303

2:00 PM

6:18-17730 Sally Jeanne Way

Chapter 7

Adv#: 6:18-01238 Daff, Chapter 7 Trustee v. Alohrav Studios, Inc., a Delaware corporation

#22.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01238. Complaint by Charles W. Daff, Chapter 7 Trustee against Alohrav Studios, Inc., a Delaware corporation. (Charge To Estate). Verified Complaint for: 1) Quiet Title; 2) Cancellation of Instrument; and 3) Declaratory Relief Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

From: 2/6/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/10/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sally Jeanne Way

Represented By
Summer M Shaw

Defendant(s):

Alohrav Studios, Inc., a Delaware

Pro Se

Plaintiff(s):

Charles W. Daff, Chapter 7 Trustee

Represented By
Brandon J Iskander

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Brandon J Iskander

**United States Bankruptcy Court
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Wednesday, March 13, 2019

Hearing Room 303

2:00 PM

6:18-17663 Stephen Richard Morales

Chapter 7

Adv#: 6:18-01242 Forniss et al v. Morales et al

#23.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01242. Complaint by Steven John Forniss against Stephan Richard Morales, Diane Forniss Morales, Todd Turoci. 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)) (Firman, Fritz)

From: 3/6/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/22/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Richard Morales

Represented By
Todd L Turoci

Defendant(s):

Stephan Richard Morales

Represented By
Todd L Turoci

Diane Forniss Morales

Represented By
Todd L Turoci

Joint Debtor(s):

Diane Forniss Morales

Represented By
Todd L Turoci

Plaintiff(s):

Stephen Forniss

Represented By
Fritz J Firman

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Wednesday, March 13, 2019

Hearing Room 303

2:00 PM

CONT... Stephen Richard Morales

Chapter 7

Alfonso Forniss

Represented By
Fritz J Firman

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, March 13, 2019

Hearing Room 303

2:00 PM

6:18-16905 Tina M Coca

Chapter 7

Adv#: 6:18-01216 Addison v. Coca

#24.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01216. Complaint by Chelsea Addison against Tina M Coca. willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))),02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)))

From: 1/9/19

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/22/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tina M Coca

Represented By
Emilia N McAfee

Defendant(s):

Tina M Coca

Pro Se

Plaintiff(s):

Chelsea Addison

Represented By
David C Parisi
Ethan M Preston

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, March 13, 2019

Hearing Room 303

2:00 PM

6:18-14862 Luz Diaz

Chapter 7

Adv#: 6:19-01009 Diaz v. WELLS FARGO BANK, N.A., a National Association Ban

#25.00 Status Conference RE: [1] Adversary case 6:19-ap-01009. Complaint by Luz Diaz against WELLS FARGO BANK, N.A., a National Association Banking Entity, CACH, LLC, A California Limited Liability Company. (Fee Not Required). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property))

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 2/7/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luz Diaz

Represented By
Richard L Barrett

Defendant(s):

WELLS FARGO BANK, N.A., a

Pro Se

CACH, LLC, A California Limited

Pro Se

Plaintiff(s):

Luz Diaz

Represented By
Richard L Barrett

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, March 13, 2019

Hearing Room 303

2:00 PM

6:16-13096 Tarek El Sayed Ayoub

Chapter 7

Adv#: 6:16-01219 Candee et al v. Ayoub et al

#26.00 Motion for Reasonable Attorney Fees (Lieberg, Jon)

EH__

Docket 41

Tentative Ruling:

3/13/19

BACKGROUND

On April 6, 2016, Tarek and Gabriela Ayoub ("Debtors") filed a Chapter 11 voluntary petition. On April 12, 2016, Debtors' case was dismissed for failure to file initial petition documents. On April 13, 2016, Debtors filed a motion to vacate dismissal; that motion was granted on April 15, 2016. On May 4, 2016, Debtors' case was again dismissed for failure to file schedules, statements, and/or plan. Two days later, Debtors filed a second motion to vacate dismissal; on May 26, 2016, the second motion to vacate dismissal was granted. On October 27, 2016, the Debtors moved to convert their case to a case under chapter 7. The case was converted on October 31, 2016. Among the creditors of the Debtors' estate are Keith Candee and Original Thurber Ranch, LLC (collectively, the "Candee Parties" or "Plaintiffs").

On August 26, 2016, the Candee Parties filed a complaint to determine dischargeability of debt pursuant to 11 U.S.C. § 523(a)(6) ("Complaint"). The Complaint generally alleges that the Candee Parties held validly recorded easements which burdened the Debtors' property. The Complaint further alleges that despite their knowledge of the validity of the easements, the Debtors interfered with the Candee Parties' use of the easements, trespassed on the Plaintiffs' property, committed unlawful acts of violence, threatened the Plaintiffs, and placed a fence to attempt to exercise domain over the disputed property.

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CONT... Tarek El Sayed Ayoub

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On June 10, 2015, the Superior Court of California in the County of Riverside (the "State Court") rendered Judgment ("Judgment") in favor of the Plaintiffs in the state court action entitled *Gabriela Ayoub v. Keith H. Candee* and related cross-action, Case No. MCC1301436 (the "State Court Action"). The State Court's Judgment was supported by a statement of decision setting forth its factual findings and conclusions of law (the "Decision"). The Decision makes clear that the grounds for damages was based on findings that the Debtors committed intentional torts of conversion, trespass, and private nuisance interfering with easements.

On November 21, 2018, the Plaintiffs filed a motion for summary judgment. The Debtors filed their response on December 19, 2018. On January 18, 2019, the Court granted the motion for summary judgment and entered a non-dischargeability judgment in favor of Plaintiffs.

On February 1, 2019, Plaintiffs filed a motion for reasonable attorney fees, requesting \$115,703.91 in relation to the prosecution of the adversary proceeding and related disputes in Debtors' main bankruptcy cases. On February 27, 2019, Debtors filed their opposition, arguing that Plaintiffs have not provided a valid legal basis for their claim.

DISCUSSION

Plaintiffs argue that that Court has "the power to award attorney fees under state laws." [Dkt. 41, ¶ 21]. In support of this contention, Plaintiffs provide two cases which include examples of federal courts awarding attorney fees under "state law". The first, *Travelers Cas. & Sur. Co. of Am. v. Pacific Gas & Elec. Co.*, 549 U.S. 443 (2007) involved a contractual provision which provided for payment of attorney fees in the situation. Here, however, Plaintiffs have not alleged that a contractual agreement is the source of their attorney fee request. In the second case, *Ryan v. Editions Ltd. West, Inc.*, 786 F.3d 754 (9th Cir. 2015), the Ninth Circuit upheld an award of attorney fees based on a California statute. As noted in the second, in appropriate circumstances a federal court can authorize an award of attorney fees based on a state statute.

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Here, Plaintiffs' argument appears to be the following: (1) the state court awarded attorney fees under CAL. CIV. CODE §§ 1021.9 and 2033.420; and (2) Plaintiffs should be entitled to attorney fees for defending the judgment. In support of the latter, Plaintiffs offer the following:

When a party is entitled to an award of attorney fees in the court of first instance, that party is ordinarily entitled to recover fees incurred in successfully defending the judgment on appeal. Although this was not an appeal, this was an attempt to overturn a final state court judgment.

[Dkt. No 41, ¶ 26] (citation omitted). The Court notes that the Ninth Circuit in *Voice v. Stormans Inc.*, 757 F.3d 1015, 1016 (9th Cir. 2014) cited a number of Ninth Circuit cases which stand for the proposition that "a party that is entitled to an award of attorneys' fees in the district court is also entitled to an award of attorneys' fees on appeal."

As conceded by Plaintiffs, however, the instant action was not an appeal. Nor is the filing of a bankruptcy case "an attempt to overturn a final state court judgment." While an appeal and a bankruptcy filing may both represent attempts to extinguish liability on a judgment, there are legal differences between the two situations which are material here.

CAL. CIV. P. CODE § 1021.9 provides:

In any action to recover damages to personal or real property resulting from trespassing on lands either under cultivation or intended or used for the raising of livestock, the prevailing plaintiff shall be entitled to reasonable attorney's fees in addition to other costs, and in addition to any liability for damages imposed by law.

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And the other state law basis for attorney fees cited by Plaintiffs, CAL. CIV. P. CODE § 2033.420 relates to attorney fees arising out of non-cooperation during the discovery state of litigation.

Technically, while Plaintiffs' defense of its state court judgment on appeal would likely be considered to fall within the purview of CAL. CIV. P. CODE § 1021.9, as it would stem from the same action that was heard in the state trial court, the non-dischargeability proceeding represents a different action – an action to declare the state court judgment to be non-dischargeable. This is an important distinction. Typically, in a non-dischargeability proceeding a creditor is not entitled to an award of attorney fees. *See In re Butcher*, 200 B.R. 675, 678 (Bankr. C.D. Cal. 1996) ("Attorneys fees are not recoverable by a creditor in a dischargeability action under the Code."); *see also In re Johnson*, 756 F.2d 738 (9th Cir. 1985) (state law attorney fees not allowed for litigating questions of pure bankruptcy law).

In *Travelers Cas. & Sur. Co. of Am. v. Pacific Gas & Elec. Co.*, 549 U.S. 443 (2007), the Supreme Court, overruled the Ninth Circuit's *Fobian* rule, and provided a clearer avenue for creditors to seek attorney fees, based on state law, for litigation which occurs in bankruptcy court. Nevertheless, there still must be a valid state law basis for the claim of attorney fees. *See, e.g.*, GINSBERG & MARTIN ON BANKRUPTCY § 11.07 (5th ed. 2019) ("A creditor who prevails on a nondischargeability action under § 523 is entitled to recover its attorneys' fees and have them held nondischargeable along with the debt if the prevailing creditor has a statutory or contractual right to recover attorneys' fees.") (collecting cases). And courts have continued to conservatively apply state law attorney fee statutes to non-dischargeability proceedings. *See, e.g., In re Levitt*, 2008 WL 8448069 (B.A.P. 9th Cir. 2008); *see also In re Dinan*, 448 B.R. 775 (B.A.P. 9th Cir. 2011).

Here, neither of the state law bases for attorney fees are applicable to this proceeding. Plaintiffs did not request a monetary judgment, but rather relied on their state court judgment and collateral estoppel, and, therefore CAL. CIV. P. CODE § 1021.9 is inapplicable since there was "no action to recover damages." And CAL. CIV. P. CODE § 2033.420 is inapplicable because the relevant discovery violation did not occur in

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this proceeding or this court. Therefore, Plaintiffs not having pointed to a valid legal basis for attorney fees under state law, the Court is inclined to DENY the motion without prejudice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Tarek El Sayed Ayoub	Represented By Sherif Fathy
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Defendant(s):

Tarek El Sayed Ayoub	Pro Se
Gabriela Villeda Ayoub	Pro Se

Joint Debtor(s):

Gabriela Villeda Ayoub	Represented By Sherif Fathy
------------------------	--------------------------------

Movant(s):

Keith H Candee	Represented By Jon H Lieberg
Original Thurber Ranch LLC	Represented By Jon H Lieberg

Plaintiff(s):

Keith H Candee	Represented By Jon H Lieberg
Original Thurber Ranch LLC	Represented By Jon H Lieberg

Trustee(s):

Wesley H Avery (TR)	Represented By
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Larry D Simons

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6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01102 PRINGLE v. Capital One Bank (USA), National Association

#27.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01102. Complaint by JOHN PRINGLE against Capital One Bank (USA), National Association. (Charge To Estate \$350.00). Complaint for: (1) Avoidance of Transfers Pursuant to 11 U.S.C. § 544(b) and Cal. Civ. Code §§ 3439.04(a)(2), 3439.05; (2) Avoidance of Transfers Pursuant to 11 U.S.C. § 548(a)(1)(B); (3) Recovery of Avoided Transfers Pursuant to 11 U.S.C. § 550; and (4) Disallowance of Claims Pursuant to 11 U.S.C. § 502 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

From: 9/5/18, 11/7/18, 1/9/19

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 2/7/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Capital One Bank (USA), National

Represented By
Kevin M Eckhardt

Plaintiff(s):

JOHN PRINGLE

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe

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CONT...

Home Security Stores, Inc.

Charity J Manee

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6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01213 Pringle v. JPMorgan Chase Bank, National Association dba Chas

#28.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01213. Complaint by John Pringle against JPMorgan Chase Bank, National Association dba Chase Bank, Chase Bank USA, National Association. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

From: 1/9/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/5/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

JPMorgan Chase Bank, National

Represented By
Christopher O Rivas

Chase Bank USA, National

Represented By
Christopher O Rivas

Plaintiff(s):

John Pringle

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

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6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#29.00 CONT Status Conference re Order to Show Cause Why Jesse Bojorquez, American Business Investments, William Morschauser, Stephen Collias and Continental Capital, LLC, Should Not Be Sanctioned for Facilitating Payment to and/or Receiving Payment for Broker Services in Contravention of this Court's August 11, 2003, Sale Order

From: 1/22/19, 1/23/19

Also #30

EH__

Docket 242

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan

Stephen Collias

Represented By
Cara J Hagan

Jesse Bojorquez

Represented By
Lawrence J Kuhlman

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CONT... Devore Stop A General Partners

Chapter 7

Autumn D Spaeth ESQ

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

Mohammed Abdizadeh

Pro Se

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#30.00 CONT Status Conference re Order to Show Cause Why Jesse Bojorquez, American Business Investments, William Morschauser, Stephen Collias and Continental Capital, LLC, Should Not Be Sanctioned for Facilitating Payment to and/or Receiving Payment for Broker Services in Contravention of this Court's August 11, 2003, Sale Order

From: 1/22/19, 1/23/19

Also #29

EH__

Docket 0

***** VACATED *** REASON: DUPLICATE HEARING SET IN ERROR**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan

Stephen Collias

Represented By
Cara J Hagan

Jesse Bojorquez

Represented By
Lawrence J Kuhlman

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CONT... Devore Stop A General Partners

Chapter 7

Autumn D Spaeth ESQ

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

Mohammed Abdizadeh

Pro Se

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01061 Farah v. Bastorous et al

#31.00 Motion to Dismiss Adversary Proceeding

EH__

Docket 47

Tentative Ruling:

03/13/19

BACKGROUND

On December 8, 2017, Mark Bastorous & Bernadette Shenouda ("Debtors" or "Defendants") filed a Chapter 7 voluntary petition.

On March 12, 2018, Mina Farah ("Plaintiff" or "Creditor") filed a complaint against Mark Bastorous, Bernadette Shenouda, and Does 1-10, inclusive ("Defendants") for nondischargeability pursuant to § 523(a)(2)(A). On April 11, 2018, the Defendants filed a motion to dismiss. The Plaintiff subsequently amended her complaint on May 3, 2018. On June 4, 2018, Defendants filed a second motion to dismiss. Ultimately, on October 22, 2018, the Court granted the motion, requiring Plaintiff to provide more detail to meet the heightened pleading requirements for fraud. The next day, Plaintiff filed a second amended complaint. On November 6, 2018, Defendants filed a third motion to dismiss. On January 2, 2019, the Court granted the motion, requiring Plaintiff to clearly articulate the state law basis of the debt if Plaintiff was going to request a judgment which included monetary and punitive damages.

On January 11, 2019, Plaintiff filed her third amended complaint (the "TAC"). On January 25, 2019, Defendants filed the instant motion to dismiss (the "MTD"), arguing that Plaintiff improperly requested monetary and punitive damages and failed to plead her state law claim with requisite particularity. On February 26, 2019,

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Plaintiff filed her opposition.

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The TAC alleges the Plaintiff gave the Defendants \$241,912.00 to invest in improvements to their real estate firm's commercial office building. Plaintiff alleges the Defendants intentionally concealed other, pending senior liens on the property during negotiations. Plaintiff further contends that her note and deed of trust from Defendants were intentionally recorded in an untimely manner. The property became over-encumbered, as its fair market value was \$2,360,000, but held a total debt of over \$3,106,156, providing evidence of no intention to repay creditors. The Plaintiff believes her loan was used to buy a large parcel of property in Hesperia for Defendants' personal use.

Plaintiff contends she relied on the Defendants' misrepresentations when offering the loan, and would not have offered a loan but for the false promises. Her numerous repayment demands in 2016 and 2017 were unsuccessful. Plaintiff further asserts that the Defendants made false representations in a similar manner to another lender, Anis Khalil. Plaintiff asks for compensatory damages in the amount of \$386,452, and punitive damages in the amount of \$772,904.

DISCUSSION

I. MOTION TO DISMISS STANDARD

To avoid dismissal pursuant to Civil Rule 12(b)(6), a complaint must allege sufficient factual matter, which if accepted as true, would "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is facially plausible when a court can draw a reasonable inference that the defendant is liable for misconduct. *Id.* The plaintiff must provide "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Id.*

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II. *NON-DISCHARGEABILITY*

Under 11 U.S.C. § 523(a)(2)(A), a debt is not discharged for money obtained by false pretenses, a false representation, or actual fraud. The elements of a § 523(a)(2)(A) claim are well-established: (1) a representation; (2) that the debtor knew was false; (3) that the debtor made with the intention of deceiving the creditor; (4) reliance on the representation by the creditor; (5) and damages as a proximate result of reliance on the representations. *See, e.g., In re Eashai*, 87 F.3d 1082, 1086 (9th Cir. 1996).

Here, at the hearing on December 12, 2018, the Court granted Defendants' motion to dismiss on the specific grounds that Plaintiff needed to adequately articulate a state law claim to serve as the basis for the request for compensatory and punitive damages. The TAC now includes a second cause of action which is entitled "fraud, deceit, and/or false promise."

Defendants argue that this amendment is inadequate for two reasons. First, Defendants argues that the cause of action merely contains conclusory allegations and is insufficiently plead. As noted by Plaintiff in her opposition, however, Defendants appear to ignore the fact that the second cause of action incorporates the first twenty-seven paragraphs of the complaint into the second cause of action. While the Court agrees with Defendants that, absent that incorporation, the second cause of action may be insufficiently plead, the Court, at an earlier hearing, has already ruled that those first twenty-seven paragraphs adequately meet the heightened pleading standards for claims sounding in fraud. Therefore, the Court rejects this argument.

Second, Defendants argue that it is unclear what type of fraud Plaintiff is pleading. As noted by Plaintiff in her opposition, a plaintiff is typically permitted to plead legal theories in the alternative, and the failure to specify a specific legal theory is not fatal to the complaint. As noted by Plaintiff, and as implicitly recognized by this Court during the hearing of December 12, 2018, Plaintiff has adequately articulated the elements of an intentional misrepresentation, and, therefore, the Court is not inclined

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to dismiss the second cause of action for failure to state a claim.

Finally, Defendants argue that Plaintiff has improperly requested monetary and punitive damages in the first cause of action. While the Court agrees that it is confusing that Plaintiff has included identical requests for relief for both causes of action, even though the two causes of action should have different requests for relief, the Court cannot conclude that such inartful drafting justifies dismissal of the complaint. It is abundantly clear that the second cause of action is intended to serve as the basis for a monetary judgment, and that the first cause of action is intended to serve as the basis for determining such judgment to be non-dischargeable.

TENTATIVE RULING

The Court is inclined to DENY the motion,

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By

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Thomas F Nowland

Movant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland
Thomas F Nowland

Plaintiff(s):

Mina Farah

Pro Se

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

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6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01062 Khalil v. Bastorous et al

#32.00 Motion to Dismiss Adversary Proceeding

EH__

Docket 45

Tentative Ruling:

03/13/2019

BACKGROUND

On December 8, 2017, Mark Bastorous & Bernadette Shenouda filed a Chapter 7 voluntary petition.

On March 12, 2018, Anis Khalil ("Plaintiff") filed a complaint against Mark Bastorous, Bernadette Shenouda, and Does 1-10, inclusive ("Defendants") for nondischargeability pursuant to § 523(a)(2)(A). On April 11, 2018, the Defendants filed a motion to dismiss.

Plaintiff subsequently amended his complaint on May 3, 2018. On June 4, 2018, Defendants filed a second motion to dismiss. Ultimately, on October 22, 2018, the Court granted the motion, requiring Plaintiff to provide more detail to meet the heightened pleading requirements for fraud. The next day, Plaintiff filed a second amended complaint. On November 6, 2018, Defendants filed a third motion to dismiss. On January 2, 2019, the Court granted the motion, requiring Plaintiff to clearly articulate the state law basis of the debt if Plaintiff was going to request a judgment which included monetary and punitive damages.

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On January 11, 2019, Plaintiff filed her third amended complaint (the "TAC"). On January 25, 2019, Defendants filed the instant motion to dismiss (the "MTD"), arguing that Plaintiff improperly requested monetary and punitive damages and failed to plead her state law claim with requisite particularity. On February 26, 2019, Plaintiff filed her opposition.

The TAC alleges the Plaintiff gave the Defendants around \$260,000.00 to invest in improvements to their real estate firm's commercial office building. Plaintiff alleges the Defendants intentionally concealed other, pending senior liens on the property during negotiations. Plaintiff further contends that her note and deed of trust from Defendants were intentionally recorded in an untimely manner. The property became over-encumbered, as its fair market value was \$2,360,000, but held a total debt of over \$3,106,156, providing evidence of no intention to repay creditors. The Plaintiff believes his loan was used to buy a large parcel of property in Hesperia for Defendants' personal use.

Plaintiff contends he relied on the Defendants' misrepresentations when offering the loan, and would not have offered a loan but for the false promises that the loan would be the senior lien. His numerous repayment demands in 2016 and 2017 were unsuccessful. Plaintiff further asserts that the Defendants made false representations in a similar manner to another lender, Mina Farah. Plaintiff asks for compensatory damages of a minimum of \$300,000, and punitive damages in a minimum amount of \$600,000.

DISCUSSION

I. MOTION TO DISMISS STANDARD

To avoid dismissal pursuant to Civil Rule 12(b)(6), a complaint must allege sufficient

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factual matter, which if accepted as true, would "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is facially plausible when a court can draw a reasonable inference that the defendant is liable for misconduct. *Id.* The plaintiff must provide "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Id.*

II. *NON-DISCHARGEABILITY*

Under 11 U.S.C. § 523(a)(2)(A), a debt is not discharged for money obtained by false pretenses, a false representation, or actual fraud. The elements of a § 523(a)(2)(A) claim are well-established: (1) a representation; (2) that the debtor knew was false; (3) that the debtor made with the intention of deceiving the creditor; (4) reliance on the representation by the creditor; (5) and damages as a proximate result of reliance on the representations. *See, e.g., In re Eashai*, 87 F.3d 1082, 1086 (9th Cir. 1996).

Here, at the hearing on December 12, 2018, the Court granted Defendants' motion to dismiss on the specific grounds that Plaintiff needed to adequately articulate a state law claim to serve as the basis for the request for compensatory and punitive damages. The TAC now includes a second cause of action which is entitled "fraud, deceit, and/or false promise."

Defendants argue that this amendment is inadequate for two reasons. First, Defendants argues that the cause of action merely contains conclusory allegations and is insufficiently plead. As noted by Plaintiff in her opposition, however, Defendants appear to ignore the fact that the second cause of action incorporates the first twenty-seven paragraphs of the complaint into the second cause of action. While the Court agrees with Defendants that, absent that incorporation, the second cause of action may be insufficiently plead, the Court, at an earlier hearing, has already ruled that those first twenty-seven paragraphs adequately meet the heightened pleading standards for claims sounding in fraud. Therefore, the Court rejects this argument.

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Second, Defendants argue that it is unclear what type of fraud Plaintiff is pleading. As noted by Plaintiff in her opposition, a plaintiff is typically permitted to plead legal theories in the alternative, and the failure to specify a specific legal theory is not fatal to the complaint. As noted by Plaintiff, and as implicitly recognized by this Court during the hearing of December 12, 2018, Plaintiff has adequately articulated the elements of an intentional misrepresentation, and, therefore, the Court is not inclined to dismiss the second cause of action for failure to state a claim.

Finally, Defendants argue that Plaintiff has improperly requested monetary and punitive damages in the first cause of action. While the Court agrees that it is confusing that Plaintiff has included identical requests for relief for both causes of action, even though the two causes of action should have different requests for relief, the Court cannot conclude that such inartful drafting justifies dismissal of the complaint. It is abundantly clear that the second cause of action is intended to serve as the basis for a monetary judgment, and that the first cause of action is intended to serve as the basis for determining such judgment to be non-dischargeable.

TENTATIVE RULING

The Court is inclined to DENY the motion,

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

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Bernadette Shenouda

Represented By
Thomas F Nowland

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Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Movant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland
Thomas F Nowland

Plaintiff(s):

Anis Khalil

Pro Se

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

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6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#33.00 CONT Hearing re Summary Judgment - Motion to Dismiss Adversary Proceeding (6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 2 Declaration of Nathan R. Klein in Support of Defendants Tyler & Bursch, LLP and Jennifer L. Bursch's Fed. R. Civ. P. 12(B)(6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 3 Declaration of Jennifer L. Bursch in Support of Defendants Tyler & Bursch, LLP and Jennifer L. Bursch's Fed. R. Civ. P. 12(B)(6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 4 Compendium of Exhibits in Support of Defendants Tyler & Bursch, LLP and Jennifer L. Bursch's Fed. R. Civ. P. 12(B)(6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 5 Declaration of Service) (Tyler, Robert)
(MOTION TO DISMISS CONVERTED TO MOTION FOR SUMMARY JUDGMENT)

From: 11/29/18

Also #34 & #35

EH__

Docket 5

***** VACATED *** REASON: CONTINUED TO 5/30/19 AT 11:00 A.M.**

Tentative Ruling:

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Donna Roberto

Pro Se

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

2:00 PM

CONT... Donna Roberto

Chapter 13

Robert H Tyler

Movant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Plaintiff(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

2:00 PM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#34.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01186 Complaint by Donna Roberto against Tyler & Bursch, LLP, Jennifer Bursch. (Fee Not Required). Nature of Suit: (91 (Declaratory judgment)),(21 (Validity, priority or extent of lien or other interest in property)),(12 (Recovery of money/property - 547 preference)

From: 11/29/18

Also #33 & #35

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Pro Se

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

Plaintiff(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

2:00 PM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#35.00 Status Conference RE: [10] Counterclaim by Tyler & Bursch, LLP against Tyler & Bursch, LLP (Attachments: # 1 Exhibit Letter Dated 3/17/17 # 2 Exhibit Letter Dated 4/14/17) (Tyler, Robert)

Also #33 & #34

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Pro Se

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

Plaintiff(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:09-01235 DIAMOND v. Empire Partners, Inc., a California Corporation et

#36.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19

EH__

Docket 1

*** VACATED *** REASON: CONTINUED TO 3/27/19 AT 3:00 P.M.

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

David Loughnot

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

Jonathan A Loeb
Jeffrey Rosenfeld

DOES 1 through 100, inclusive

Pro Se

Plaintiff(s):

RICHARD K. DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
John P Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#37.00 CONT Motion By Defendant Empire Partners, Inc To Compel Compliance With Rule 45 Subpoena Duces Tecum Served On Non-Party Timothy Sullivan, And For Sanctions

From: 1/30/19

Also #38

EH__

Docket 498

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 3:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

Jonathan A Loeb

Jeffrey Rosenfeld

P Sabin Willett

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Movant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

Neil M Miller

Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#38.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
01/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19

Also #37

EH____

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 3:00 P.M.**

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By
James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

Defendant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I Gottfried

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

Aleksandra Zimonjic
Monica Rieder
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01329 DIAMOND v. Empire Partners, Inc., a California Corporation et

#39.00 CONT Status Conference re complaint
(Defendant - Empire Partners, Inc) HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 3:00 P.M.**

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

Jonathan A Loeb

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

	Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Previti Realty Fund, L.P.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
The James Previti Family Trust	Represented By Jonathan A Loeb Jeffrey Rosenfeld

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
John P Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT...

Empire Land, LLC

Chapter 7

Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners Inc et al**
Misc#: 6:18-00102 Diamond v. Empire Partners Inc et al

Chapter 0

#40.00 CONT Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **Bruce Deal**, and For Sanctions

From: 1/30/19

EH__

Docket 6

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 3:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Defendant(s):

Empire Partners Inc	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jeffrey Rosenfeld
Larry R Day	Represented By Jeffrey Rosenfeld
Neil Miller	Represented By Jeffrey Rosenfeld
Paul Roman	Pro Se
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se

Movant(s):

Empire Partners Inc	Represented By Jonathan A Loeb
---------------------	-----------------------------------

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners Inc et al

Chapter 0

Jeffrey Rosenfeld

Plaintiff(s):

Richard K Diamond

Represented By
Peter M Bransten

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00103 Diamond v. Empire Partners, Inc. et al

Chapter 0

#41.00 CONT Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **Analysis Group, Inc.**, and For Sanctions

From: 1/30/19

EH__

Docket 2

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 3:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Defendant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Larry R Day	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Neil Miller	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Paul Roman	Pro Se
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners, Inc. et al

Chapter 0

Movant(s):

Richard K Diamond

Represented By
Peter M Bransten

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Larry R Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Neil Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Plaintiff(s):

Richard K Diamond

Represented By
Peter M Bransten

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00104 Diamond v. Empire Partners, Inc. et al

Chapter 0

#42.00 CONT Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **William Haegele**, and For Sanctions

From: 1/30/19

EH__

Docket 2

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 3:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Defendant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb
Larry R Day	Represented By Jonathan A Loeb
Neil Miller	Represented By Jonathan A Loeb
Paul Roman	Pro Se
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se

Movant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT...

Diamond v. Empire Partners, Inc. et al

Chapter 0

Jeffrey Rosenfeld

Plaintiff(s):

Richard K Diamond

Represented By
Peter M Bransten

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00105 Diamond v. Empire Partners, Inc. et al

Chapter 0

#43.00 CONT Motion for Protective Order re Third Party Subpoena

From: 1/30/19

Also #44

EH__

Docket 11

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 3:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Defendant(s):

Empire Partners, Inc.

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Empire Partners, Inc.

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Larry R Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Neil Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

O'Melveny & Myers LLP

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners, Inc. et al Chapter 0

Peter Healy Pro Se

Paul Roman Pro Se

Movant(s):

KPMG LLP Represented By
Richard W Esterkin

Plaintiff(s):

Richard K Diamond Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00105 Diamond v. Empire Partners, Inc. et al

Chapter 0

#44.00 CONT Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **KPMG LLP**, and For Sanctions

From: 1/30/19

Also #43

EH__

Docket 2

***** VACATED *** REASON: CONTINUED TO 3/27/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Defendant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Larry R Day	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Neil Miller	Represented By Jonathan A Loeb Jeffrey Rosenfeld

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 13, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners, Inc. et al Chapter 0

O'Melveny & Myers LLP Pro Se

Peter Healy Pro Se

Paul Roman Pro Se

Movant(s):

Empire Partners, Inc. Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

James P Previti Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Larry R Day Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Neil Miller Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Plaintiff(s):

Richard K Diamond Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:13-18779 Rigoberto Baez

Chapter 13

#1.00 CONT Motion For Order Denying Discharge Or Dismissing Case

From: 1/31/19, 2/28/19

EH__

Docket 172

Tentative Ruling:

1/31/19

BACKGROUND

On May 17, 2013, Rigoberto Baez ("Debtor") filed a Chapter 13 voluntary petition. On June 25, 2013, Debtor's Chapter 13 plan was confirmed. Debtor's Chapter 13 plan was subsequently amended on two occasions.

On December 6, 2018, Trustee filed a notice of final cure mortgage payment. On December 27, 2018, Wells Fargo Bank N.A. filed a response, stating that Debtor was \$11,338.57 delinquent in post-confirmation payments.

On December 28, 2018, Trustee filed a motion to deny discharge or, in the alternative, dismiss the case. Because Trustee has only provided legal analysis support dismissal of the case, not citing any legal basis to deny a discharge in this situation, the Court will consider the motion as a motion to dismiss. On January 16, 2019, Debtor filed his opposition. The opposition asserts that Debtor disputes Wells Fargo's accounting, and that Debtor will work with Wells Fargo to resolve the situation.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:00 AM

CONT... Rigoberto Baez

Chapter 13

DISCUSSION

As noted by Trustee, 11 U.S.C. § 1307(c)(6) states:

(c) Except as provided in subsection (f) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including ---

(6) material default by the debtor with respect to a term of a confirmed plan

Trustee asserts that direct payments to Wells Fargo are payments under the plan, and the default in this case is material. Debtor has not provided any contrary legal authority on either point. The Court agrees with Trustee that direct payments to a lender are still considered payments under the plan. *See, e.g., In Matter of Kessley*, 655 Fed. Appx. 242, 244 (5th Cir. 2016); *see also In re Evans*, 543 B.R. 213 (Bankr. E.D. Va. 2016) (collecting cases). The Court also agrees that the post-confirmation default of \$11,338.57 is material, assuming that that figure is accurate.

TENTATIVE RULING

Debtor to apprise the Court of the status of the post-confirmation delinquency and any efforts to resolve the situation with Wells Fargo. Absent resolution, the Court is inclined to GRANT the motion.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:00 AM

CONT... Rigoberto Baez

Chapter 13

Debtor(s):

Rigoberto Baez

Represented By
Michael Smith
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:14-13931 Annie Estrada

Chapter 13

#2.00 Motion For Hardship Discharge Pursuant to 11 U.S.C. 1328(b)

Also #3

EH ____

Docket 122

Tentative Ruling:

3/14/19

BACKGROUND

On March 28, 2014, Annie Estrada ("Debtor") filed a Chapter 13 voluntary petition. On August 6, 2014, Debtor's Chapter 13 plan was confirmed. On August 12, 2014, the Court granted a § 506(d) lien avoidance motion, avoiding the junior lien of E*Trade Bank, in the amount of \$204,000, upon receipt of a Chapter 13 discharge. There have been two orders to modify the plan in this case.

On February 21, 2019, Debtor filed a motion for hardship discharge. The basis for the hardship discharge is that Debtor's household financial situation has gradually declined since 2016. Debtor also notes that March 2019 would have been the last month in the plan had Debtor remained current, and Debtor appears to assert that she has the ability to pay off the plan if given some additional time.

DISCUSSION

**United States Bankruptcy Court
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CONT... Annie Estrada

Chapter 13

11 U.S.C. § 1328(b) states:

(b) Subject to subsection (d), at any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if –

(1) the debtor's failure to complete such payments is due to circumstances for which the debtor should not justly be held accountable;

(2) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

(3) modification of the plan under section 1329 of this title is not practicable.

The first and third standard are discretionary standards. The second standard is a mechanical standard referred to as the "best interests of creditors test". Regarding this second standard, the Court notes that a review of the Debtor's schedules in this case demonstrates that Debtor had no unexempt equity in any property to distribute to creditors in a hypothetical liquidation. Therefore, Debtor has satisfied 11 U.S.C. § 1328(b)(2).

Regarding 11 U.S.C. § 1328(b)(3), the Court notes that modification of the plan is not practical due to the operation of 11 U.S.C. § 1329(c), which provides that a plan modification cannot extend the plan commitment period past five years. For this reason, it appears that plan modification is not feasible in the instant case.

Regarding 11 U.S.C. § 1328(b)(1), the motion for hardship discharge states that Debtor's spouse was the primary earner in the household, but his income (from sales

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CONT... Annie Estrada

Chapter 13

work as an independent contractor) began to diminish in 2016. Subsequently, Debtor's spouse has taken on additional employment as an Uber/Lyft driver, but Debtor and her husband are unable to pay their household bills, let alone the plan payment. The Court notes that the expenses identified in the attachment to the instant motion depicts lean expenses, although the cost of Debtor's home is extraordinarily high compared to the household income.

On the record before the Court, the Court is unable to determine whether "the debtor's failure to complete such payments is due to circumstances for which the debtor should not justly be held accountable." Specifically, the earning potential of Debtor's spouse, and the ability of Debtor to financially contribute to the family, are less than clear. The Court also notes that upon receipt of discharge in the instant case, Debtor will extinguish a junior lien of \$204,000 on Debtor's home. Furthermore, pursuant to the motion, it appears that Debtor only owes \$27.98 in outstanding prepetition arrears and \$200 to unsecured creditors under the plan. Given the lack of specificity in the instant motion, the amount of the junior lien to be avoided, and Debtor's assertion that she could "scrape together enough to pay unsecured claims" pursuant to the plan, the Court is inclined to CONTINUE this matter and the hearing on the motion to dismiss for Debtor to attempt to complete the plan.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Annie Estrada

Represented By
Chris A Mullen

Movant(s):

Annie Estrada

Represented By
Chris A Mullen
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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11:00 AM

6:14-13931 Annie Estrada

Chapter 13

#3.00 CONT Trustee's Motion to Dismiss Case re Delinquency

From: 2/28/19

Also #2

EH__

Docket 118

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annie Estrada

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:16-10385 Adolfo Gonzalez and Angelica Gonzalez

Chapter 13

#4.00 Motion to vacate dismissal

EH__

Docket 85

Tentative Ruling:

3/14/19

BACKGROUND

On January 17, 2016, Adolfo & Angelica Gonzalez ("Debtors") filed a Chapter 13 voluntary petition. On April 28, 2017, Debtors' Chapter 13 plan was confirmed. The plan was subsequently modified once.

On January 7, 2019, Trustee filed a motion to dismiss for failure to make plan payments. On February 7, 2019, the Court held a hearing on the matter, no appearance was made on behalf of Debtors, and the Court dismissed the case.

On February 11, 2019, Debtor filed a motion to vacate dismissal arguing that the case was dismissed due to the excusable neglect of Debtors because Adolfo Gonzalez fractured his foot in January 2019 and was preoccupied with medical care and expenses. This being the case, it appears that the proximate cause of the dismissal on February 7, 2019 was the failure to Debtors' attorney to promptly take action to address the situation, or to appear at the hearing and advocate for Debtors. The motion contains no explanation as to why Debtors' counsel did not appear at the hearing.

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CONT... Adolfo Gonzalez and Angelica Gonzalez

Chapter 13

DISCUSSION

Debtor relies on FED. R. CIV. P. Rule 60(b)(1), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, which allows for relief from an order based on "mistake, inadvertence, surprise, or excusable neglect."

While Debtors' argue that the case was dismissed due to excusable neglect after Adolfo Gonzalez fractured his foot, the Court is also concerned that Debtors' counsel did not appear at the hearing on Trustee's motion to dismiss. It is well established that "an attorney's ignorance and carelessness does not provide grounds for Rule 60(b) relief." *In re Mercado*, 144 B.R. 879, 886 (Bankr. C.D. Cal. 1992) (citing *Bershad v. McDonough*, 469 F.2d 1333, 1337 (7th Cir. 1972)). And the mere assertion that counsel did not fulfill its duties, but that such carelessness was inadvertent, is clearly inadequate to support Rule 60(b) relief. *See, e.g., In re ACME Motors, Inc.*, 125 B.R. 702, 703 (Bankr. D.R.I. 1991).

"Rule 60(b) relief is extraordinary." *Id.* Yet, in this court, a request for relief from a Chapter 13 dismissal order has become semi-ordinary. On occasion, the requests are legally sound. Here, however, the evidence provided simply indicates that Debtor's counsel did not attend the hearing for reasons that do not appear to be credible.

The Seventh Circuit has stated that:

[T]he clients are principals, the attorney is an agent, and under the law of agency the principal is bound by his chosen agent's deeds. The rule is that *all* of the attorney's misconduct (except in the cases where the act is outside the scope of employment or in cases of excusable neglect) becomes the problem of the client. A lawyer who inexcusably neglects his client's obligations does not present exceptional circumstances.

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CONT... **Adolfo Gonzalez and Angelica Gonzalez**

Chapter 13

Bakery Mach. & Fabrication, Inc. v. Traditional Baking, Inc., 570 F.3d 845, 848 (7th Cir. 2009). "Although attorney carelessness can [in certain circumstances] constitute 'excusable neglect' under Rule 60(b)(1), attorney inattentiveness to litigation is not excusable, no matter what the resulting consequences the attorney's somnolent behavior may have on a litigant." *Easley v. Kirmsee*, 382 F.3d 693, 698 (7th Cir. 2004) (collecting cases).

TENTATIVE RULING

The Court is inclined to GRANT the motion conditioned on compliance with the Trustee's conditions.

APPEARANCES REQUIRED. Jamie Cuevas to personally appear at the hearing.

Party Information

Debtor(s):

Adolfo Gonzalez

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Angelica Gonzalez

Represented By
Jaime A Cuevas Jr.

Movant(s):

Adolfo Gonzalez

Represented By
Jaime A Cuevas Jr.

Angelica Gonzalez

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:17-13239 Gerald Bauer

Chapter 13

#5.00 Motion to vacate dismissal

EH__

Docket 43

Tentative Ruling:

3/14/19

BACKGROUND

On April 19, 2017, Gerald Bauer ("Debtor") filed a Chapter 13 voluntary petition. On June 13, 2017, Debtor's Chapter 13 plan was confirmed.

On December 13, 2018, Trustee filed a motion to dismiss for plan infeasibility. On January 31, 2019, the Court held a hearing on the matter, and continued Trustee's motion for one week for Debtor to lodge an order on his proposed plan modification. During that one-week period, Debtor did not lodge an order on the motion to modify plan, and no appearance was made on behalf of Debtor at the continued hearing. On February 7, 2019, the Court dismissed Debtor's case.

On February 8, 2019, Debtor filed a motion to vacate dismissal arguing that the case was dismissed due to attorney mistake. Among other things, Debtor's counsel states that he was informed by Trustee that the motion to dismiss would be withdrawn prior to the hearing. On February 11, 2019, Trustee filed comments indicating conditional approval. Trustee also states that the statement of Debtor's counsel that regarding withdrawal of the motion to dismiss "is not credible and makes no sense." [Dkt. No. 46, ¶ 1].

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CONT... Gerald Bauer

Chapter 13

DISCUSSION

Debtor relies on FED. R. CIV. P. Rule 60(b)(1), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, which allows for relief from an order based on "mistake, inadvertence, surprise, or excusable neglect."

The legal basis for Debtor's assertion that the dismissal order should be vacated is that Debtor's counsel inadvertently did not appear at the hearing due miscommunication with Trustee, an assertion which the Trustee states is not credible. Additionally, it is well established that "an attorney's ignorance and carelessness does not provide grounds for Rule 60(b) relief." *In re Mercado*, 144 B.R. 879, 886 (Bankr. C.D. Cal. 1992) (citing *Bershad v. McDonough*, 469 F.2d 1333, 1337 (7th Cir. 1972)). And the mere assertion that counsel did not fulfill its duties, but that such carelessness was inadvertent, is clearly inadequate to support Rule 60(b) relief. *See, e.g., In re ACME Motors, Inc.*, 125 B.R. 702, 703 (Bankr. D.R.I. 1991).

"Rule 60(b) relief is extraordinary." *Id.* Yet, in this court, a request for relief from a Chapter 13 dismissal order has become semi-ordinary. On occasion, the requests are legally sound. Here, however, the evidence provided simply indicates that Debtor's counsel did not attend the hearing for reasons that do not appear to be credible.

The Seventh Circuit has stated that:

[T]he clients are principals, the attorney is an agent, and under the law of agency the principal is bound by his chosen agent's deeds. The rule is that *all* of the attorney's misconduct (except in the cases where the act is outside the scope of employment or in cases of excusable neglect) becomes the problem of the client. A lawyer who inexcusably neglects his client's obligations does not present exceptional circumstances.

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CONT... Gerald Bauer

Chapter 13

Bakery Mach. & Fabrication, Inc. v. Traditional Baking, Inc., 570 F.3d 845, 848 (7th Cir. 2009). "Although attorney carelessness can [in certain circumstances] constitute 'excusable neglect' under Rule 60(b)(1), attorney inattentiveness to litigation is not excusable, no matter what the resulting consequences the attorney's somnolent behavior may have on a litigant." *Easley v. Kirmsee*, 382 F.3d 693, 698 (7th Cir. 2004) (collecting cases).

TENTATIVE RULING

The Court is inclined to GRANT the motion conditioned on compliance with the Trustee's conditions.

APPEARANCES REQUIRED. Daniel King to personally appear at the hearing.

Party Information

Debtor(s):

Gerald Bauer

Represented By
Daniel King

Movant(s):

Gerald Bauer

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:17-17934 Ignacio Figueroa and Nadia Elizabeth Figueroa

Chapter 13

#6.00 Objection to entry of discharge filed by Alderson Law Group

EH__

Docket 80

Tentative Ruling:

3/14/2019

BACKGROUND

On September 21, 2017, Ignacio & Nadia Figueroa ("Debtors") filed a Chapter 13 voluntary petition. On November 13, 2017, Debtors' Chapter 13 plan was confirmed.

On June 11, 2018, Alderson Law Firm ("Creditor") filed a proof of claim for an unsecured claim in the amount of \$240,402.04 ("Claim 5"). On June 29, 2018, Debtors filed an objection to Claim 5, arguing that the claim was filed late because the claims bar deadline was January 24, 2018. On September 4, 2018, the Court sustained the objection, and disallowed Claim 5 in its entirety.

On October 16, 2018, Trustee filed the notice of intent to file final report. On October 19, 2018, Debtors filed their certificates of compliance and applications for entry of discharge. Creditor objected to these applications on November 5, 2018. It is not clear what happened in the interim, but, ultimately, Debtors refiled their certificates of compliance and applications for entry of discharge on January 29, 2019. On February 13, 2019, Creditor objected again. On February 20, 2019, the Court set the matter for hearing. On March 6, 2019, Debtors filed an opposition to Creditor's objection.

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11:00 AM

CONT... Ignacio Figueroa and Nadia Elizabeth Figueroa

Chapter 13

DISCUSSION

Part of Creditor's objection relates to its assertion that Claim 5 should not have been disallowed. Creditor raises a variety of arguments in relation to this assertion. The Court notes that if Creditor wishes to bring a motion to reconsider or vacate the order disallowing Claim 5, the instant objection to entry of discharge was not the proper method of bring such a request to the Court. Furthermore, the arguments made by Creditor demonstrate a fundamental misunderstanding of bankruptcy law. As noted by the Court at the hearing of August 23, 2018, 11 U.S.C. § 502(b)(9) provides that failure to timely file a claim is grounds for disallowance of the claim. Creditor has not offered any argument which would excuse compliance with that unambiguous statute.

The remainder of Creditor's objection contains fundamental misstatements of bankruptcy law or relates to state law litigation which does not appear to have any direct relevance to the discharge of Debtors. Furthermore, Creditor's objection contains no admissible evidence at all, and, as such, does not provide this Court with any evidentiary basis to rule in Creditor's favor. Finally, as noted by Debtors, Creditor has not actually provided any viable argument, grounded in bankruptcy law, which would allow this Court to sustain the objection.

TENTATIVE RULING

The Court is inclined to OVERRULE the objection.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ignacio Figueroa

Represented By
Ghada Helena Philips

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CONT... Ignacio Figueroa and Nadia Elizabeth Figueroa

Chapter 13

Joint Debtor(s):

Nadia Elizabeth Figueroa

Represented By
Ghada Helena Philips

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:18-13481 Rorye James Mosley, Sr.

Chapter 13

#7.00 Motion to Reconsider (related documents 30 Motion for Relief from Stay - Real Property)

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rorye James Mosley Sr.

Represented By
Brian J Soo-Hoo

Movant(s):

Rorye James Mosley Sr.

Represented By
Brian J Soo-Hoo
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#8.00 Motion for Authority to Sell or Refinance Real Property under LBR 3015-1

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Movant(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:19-11371 Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

#9.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 1) 8893 Orange Street, Rancho Cucamonga, CA 91701, 2) 2006 Ford F-150

MOVANT: WARREN ALAN HALL AND KELLY SUZANNE HALL

EH__

Docket 15

Tentative Ruling:

3/14/2019

The Court is inclined to DENY the motion for several reasons. First of all, the motion is internally contradictory regarding the identity of the mortgagee. Pages 1 and 3 of the motion identify U.S. Bank National Association as the relevant secured creditor, while page 4 identifies Nationstar Mortgage LLC as the secured creditor instead. Furthermore, the Court notes that while both entities were served with the motion, only Nationstar Mortgage LLC was served pursuant to FED. R. BANKR. P. Rule 7004. Second, the Court notes that the motion incorrectly identifies the case number of Debtors' previous case, and falsely states that relief from stay was not granted in the previous case.

Finally, the Court notes that the motion fails to provide sufficiently detailed evidence to meet the "clear and convincing" standard of 11 U.S.C. § 362(c)(3)(C), which is required to overcome the presumption that this case was filed in bad faith.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Warren Alan Hall

Represented By
Lionel E Giron

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CONT... Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

Joint Debtor(s):

Kelly Suzanne Hall

Represented By
Lionel E Giron

Movant(s):

Warren Alan Hall

Represented By
Lionel E Giron

Kelly Suzanne Hall

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:19-10445 Abidan Aceves and Cindy Aceves

Chapter 13

#10.00 CONT Motion for Setting Property Value Collateral Held by Northrop Grumman Federal Credit Union

From: 2/28/19

EH__

Docket 12

Tentative Ruling:

2/28/19

BACKGROUND

On January 18, 2019, Abidan & Cindy Aceves ("Debtors") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2006 Chevrolet Silverado (the "Property"). Northrop Grumman Federal Credit Union ("Creditor") holds a security interest in the Property. On January 28, 2019, Creditor filed a proof of claim in the amount of \$16,229.83, identifying \$10,507 as secured by the Property.

On January 31, 2019, Debtors filed a motion to value the Property. Debtors assert that the Property should be valued at \$7,856.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of

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CONT... Abidan Aceves and Cindy Aceves Chapter 13

the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

Presently the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Kelly Blue Book report identifying the private party values of the Dodge and the Ram. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

TENTATIVE RULING

The Court is inclined to CONTINUE the hearings for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

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CONT... Abidan Aceves and Cindy Aceves

Chapter 13

Debtor(s):

Abidan Aceves

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Cindy Aceves

Represented By
Rabin J Pournazarian

Movant(s):

Abidan Aceves

Represented By
Rabin J Pournazarian

Cindy Aceves

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-20238 Efrain Padron

Chapter 13

#11.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/28/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Efrain Padron

Represented By
Patricia A Mireles

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-20296 Daniel Lee Crump

Chapter 13

#12.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/28/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Lee Crump

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:19-10082 Ann Frances Perez

Chapter 13

#13.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ann Frances Perez

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:18-20731 Donnell Leffridge and Marsha Leffridge

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/14/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donnell Leffridge Pro Se

Joint Debtor(s):

Marsha Leffridge Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
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11:00 AM

6:18-20732 Trevor D. Washington and Sandra Washington

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Trevor D. Washington

Represented By
Julie J Villalobos

Joint Debtor(s):

Sandra Washington

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:18-20735 Michael Placencia

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Placencia

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:18-20737 Alfredo N Adriano

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfredo N Adriano

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:18-20759 Elida Soto

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elida Soto

Represented By
William G Cort

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:18-20769 Stephanie Felita Galloway

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 2/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie Felita Galloway

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:18-20787 Terri Tavona Randolph

Chapter 13

#20.00 Motion to Disallow Claims number 2

Also #21

EH__

Docket 18

Tentative Ruling:

3/14/2019

BACKGROUND:

On December 28, 2019, Terry Randolph ("Debtor") filed a Chapter 13 voluntary petition. On January 3, 2019, CarMax Auto Finance ("Creditor") filed a proof of claim for a secured claim in the amount of \$30,730.76 ("Claim 2"). On February 7, 2019, Debtor filed an objection to Claim 2. Creditor argues that the collateral for Claim 2, a vehicle, was repossessed.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving

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CONT... **Terri Tavona Randolph**

Chapter 13

rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

Here, Debtor has not provided any evidence that the subject vehicle was repossessed. Debtor has provided a bankruptcy credit report which indicates that the claim was identified at \$20,284 on November 30, 2018. Given that the evidence submitted by Creditor appears to be a simple text file print-off, with limited information, and given that Creditor has failed to oppose the instant claim objection, which the Court deems consent to the relief requested pursuant to Local Rule 9013-(1)(h), the Court is inclined to accept Debtor's proposed reduction of the claim to \$20,284. On the current record, however, the Court has no evidentiary basis to determine that the collateral was repossessed and sold.

TENTATIVE RULING

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CONT... Terri Tavona Randolph

Chapter 13

The Court is inclined to SUSTAIN the objection to the extent of decreasing Claim 2 to \$20,284 and otherwise OVERRULE the objection without prejudice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Terri Tavona Randolph

Represented By
Dana Travis

Movant(s):

Terri Tavona Randolph

Represented By
Dana Travis
Dana Travis
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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11:00 AM

6:18-20787 Terri Tavona Randolph

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

Also #20

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Terri Tavona Randolph

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

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Hearing Room 303

11:00 AM

6:18-20797 Garret A. Chick and Riza C. Chick

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Garret A. Chick

Represented By
C Scott Rudibaugh

Joint Debtor(s):

Riza C. Chick

Represented By
C Scott Rudibaugh

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:18-20798 Joe Martin Galarza

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/21/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joe Martin Galarza

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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11:00 AM

6:18-20839 Raul Rojas Rodriguez

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Raul Rojas Rodriguez

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:18-20845 Gloria Simmons

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gloria Simmons

Represented By
Bruce A Wilson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Riverside
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Hearing Room 303

11:00 AM

6:18-20847 Erica Raquel Zavaleta

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Erica Raquel Zavaleta

Represented By
William J Smyth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Hearing Room 303

11:00 AM

6:18-20862 Araceli Lorena Gonzalez

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/18/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Araceli Lorena Gonzalez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:18-20873 Alfonso Alvarado, Jr. and Alpha Rubi Alvarado

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfonso Alvarado Jr.

Represented By
Michael E Clark

Joint Debtor(s):

Alpha Rubi Alvarado

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:19-10001 Jose Diaz and Betty Diaz

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Diaz

Represented By
Nima S Vokshori

Joint Debtor(s):

Betty Diaz

Represented By
Nima S Vokshori

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-10024 James J. Ysais

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James J. Ysais

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:19-10031 Debbie Willis

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Debbie Willis

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-10036 Erlwin Williams

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Erlwin Williams

Represented By
Laleh Ensafi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:19-10047 Jose Antonio Contreras and Mayra Lorena Contreras

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Antonio Contreras

Represented By
A Mina Tran

Joint Debtor(s):

Mayra Lorena Contreras

Represented By
A Mina Tran

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:19-10052 Dwayne J. Williams and Dana S. Williams

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dwayne J. Williams

Represented By
Michael Jay Berger

Joint Debtor(s):

Dana S. Williams

Represented By
Michael Jay Berger

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:19-10070 Jaelyn Roylene Young

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

Also #36

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jaelyn Roylene Young

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-10070 Jaelyn Roylene Young

Chapter 13

#36.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: JAELYN YOUNG

From: 1/29/19

Also #35

EH__

Docket 16

Tentative Ruling:

1/29/2019

The Court is inclined to DENY the motion for failure to comply with the Court's self-scheduling instructions. Specifically, the motion indicates that it was served on January 19, 2019, which is four days short of the notice required by this Court's procedures.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jaelyn Roylene Young

Represented By
Christopher J Langley

Movant(s):

Jaelyn Roylene Young

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:19-10071 John M. Betham and Dana M. Betham

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John M. Betham

Represented By
Christopher J Langley

Joint Debtor(s):

Dana M. Betham

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:19-10072 Gustavo R. Perez

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gustavo R. Perez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:18-20274 Robert Townsend

Chapter 13

#39.00 Motion RE: Objection to Claim Number 1 by Claimant Santander Consumer USA Inc..

Also #40

EH__

Docket 25

Tentative Ruling:

3/14/2019

BACKGROUND:

On December 6, 2018, Robert Townsend ("Debtor") filed a Chapter 13 voluntary petition. On January 25, 2019, Santander Consumer USA ("Creditor") filed a proof of claim for an unsecured claim in the amount of \$4,183.41 ("Claim 1"). On January 29, 2019, Debtor filed an objection to Claim 1. Debtor argues that Claim 1 is barred by the statute of limitations.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing

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CONT... Robert Townsend
upon a motion for relief. *Id.*

Chapter 13

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

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CONT... Robert Townsend

Chapter 13

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 1 is based on a retail installment contract for a vehicle. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim appears to indicate that the last activity on the account was on September 22, 2014. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 1 is unenforceable.

Furthermore, Creditor has not opposed the claim objection and the Court deems failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-(1)(h).

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 1 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

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11:00 AM

CONT... Robert Townsend

Chapter 13

Debtor(s):

Robert Townsend

Represented By
David A Akintimoye

Movant(s):

Robert Townsend

Represented By
David A Akintimoye

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 14, 2019

Hearing Room 303

11:00 AM

6:18-20274 Robert Townsend

Chapter 13

#40.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19

Also #39

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Townsend

Represented By
David A Akintimoye

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#41.00 Trustee's Motion to Dismiss Case

EH ____

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:13-28594 Jimmy Radu Vianu and Milagros Vianu

Chapter 13

#42.00 Trustee's Motion to Dismiss Case

EH ____

Docket 90

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jimmy Radu Vianu

Represented By
Andrew Nguyen

Joint Debtor(s):

Milagros Vianu

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:15-10929 Christopher John Helme

Chapter 13

#43.00 Trustee's Motion to Dismiss Case

EH ____

Docket 171

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher John Helme

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:15-12176 Bonnie Jean Conant

Chapter 13

#44.00 CONT Trustee's Motion to Dismiss Case re Delinquency

From: 2/28/19

EH__

Docket 98

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bonnie Jean Conant

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:01 AM

6:15-14835 Bennea Cynthia Travis

Chapter 13

#45.00 Trustee's Motion to Dismiss Case

EH ____

Docket 94

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bennea Cynthia Travis

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:15-17743 Maria C. Ignacio

Chapter 13

#46.00 CONT Trustee's Motion to Dismiss Case

From: 2/28/19

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria C. Ignacio

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:01 AM

6:15-19148 Esmeralda Caldera

Chapter 13

#47.00 Trustee's Motion to Dismiss Case re Delinquency

EH__

Docket 90

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Esmeralda Caldera

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:16-10379 Nicolas Garcia Ramos and Rosadelia Ramos

Chapter 13

#48.00 Trustee's Motion to Dismiss Case

EH__

Docket 66

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicolas Garcia Ramos

Represented By
Todd L Turoci

Joint Debtor(s):

Rosadelia Ramos

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:16-12453 Michael Joseph Fodor

Chapter 13

#49.00 CONT Trustee's Motion to Dismiss Case

From: 1/31/19, 2/28/19

EH__

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Joseph Fodor

Represented By
Michael D Franco

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:16-12849 Elsy G. Mejia

Chapter 13

#50.00 Trustee's Motion to Dismiss Case

EH__

Docket 55

Tentative Ruling:

- NONE LISTED -

Party Information

Joint Debtor(s):

Elsy G. Mejia

Represented By
James Geoffrey Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:16-18546 Alexis I Barahona

Chapter 13

#51.00 Trustee's Motion to Dismiss Case

EH__

Docket 63

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alexis I Barahona

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:16-20163 Sandra M. Hankins

Chapter 13

#52.00 CONT Trustee's Motion to Dismiss Case

From: 2/28/19

EH__

Docket 71

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sandra M. Hankins

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:17-11131 Bruce Howard Ruggles and Ann Marie Ruggles

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 84

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Howard Ruggles

Represented By
John F Brady

Joint Debtor(s):

Ann Marie Ruggles

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:17-11167 Victor Thomas Lawton

Chapter 13

#54.00 CONT Trustee's Motion to Dismiss Case

From: 2/28/19

EH__

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Victor Thomas Lawton

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:17-14650 Brian Eugene Anderson and Gina Marie Anderson

Chapter 13

#55.00 CONT Trustee's Motion to Dismiss Case

From: 2/28/19

EH ____

Docket 33

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/12/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian Eugene Anderson

Represented By
Todd L Turoci

Joint Debtor(s):

Gina Marie Anderson

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:17-15662 Jemill M Humphrey

Chapter 13

#56.00 CONT Trustee's Motion to Dismiss Case

From: 1/31/19, 2/28/19

EH__

Docket 42

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jemill M Humphrey

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:17-17589 Ryan Patrick McHugh and Jennifer Lynne McHugh

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 69

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Joint Debtor(s):

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:17-18272 Brenda Barlow

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH ____

Docket 60

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brenda Barlow

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:18-10825 William Thomas Pedrino and Terri Lyn Pedrino

Chapter 13

#59.00 Trustee's Motion to Dismiss Case re Delinquency

EH__

Docket 64

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/11/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William Thomas Pedrino

Represented By
Todd L Turoci

Joint Debtor(s):

Terri Lyn Pedrino

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:18-10940 Ruben L Benitez and Christina M Benitez

Chapter 13

#60.00 CONT Trustee's Motion to Dismiss Case

From: 2/28/19

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ruben L Benitez

Represented By
Sundee M Teeple

Joint Debtor(s):

Christina M Benitez

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:18-12170 Pamela Ann Harris

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pamela Ann Harris

Represented By
Halli B Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 14, 2019

Hearing Room 303

11:01 AM

6:18-12992 Charles Henry Sacayan and Catherine Angela McNicholas

Chapter 13

#62.00 CONT Trustee's Motion to Dismiss Case

From: 1/17/19

EH__

Docket 62

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
1/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Henry Sacayan

Represented By
Ethan Kiwhan Chin

Joint Debtor(s):

Catherine Angela McNicholas

Represented By
Ethan Kiwhan Chin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 19, 2019

Hearing Room 303

1:30 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#1.00 CONT Motion for approval of chapter 11 disclosure statement for Debtor's Chapter 11 Reorganization Plan

From: 2/26/19

Also #2

EH__

Docket 155

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 19, 2019

Hearing Room 303

1:30 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#2.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 11/27/18, 12/19/18, 12/20/18, 1/15/19, 2/26/19

Also #1

EH__

Docket 5

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 21, 2019

Hearing Room 303

11:00 AM

6:18-19594 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#1.00 CONT Confirmation of Chapter 13 Plan

From: 1/17/19

EH __

Docket 0

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 21, 2019

Hearing Room 303

11:00 AM

6:18-19729 John R Saxton

Chapter 13

#2.00 CONT Confirmation of Chapter 13 Plan

From: 1/17/19

EH __

Docket 0

Party Information

Debtor(s):

John R Saxton

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 21, 2019

Hearing Room 303

11:00 AM

6:19-11371 Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

#3.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 1) 8893 Orange Street, Rancho Cucamonga, CA 91701, 2) 2006 Ford F-150

MOVANT: WARREN ALAN HALL AND KELLY SUZANNE HALL

From: 3/14/19

EH__

Docket 15

Party Information

Debtor(s):

Warren Alan Hall

Represented By
Lionel E Giron

Joint Debtor(s):

Kelly Suzanne Hall

Represented By
Lionel E Giron

Movant(s):

Warren Alan Hall

Represented By
Lionel E Giron

Kelly Suzanne Hall

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 21, 2019

Hearing Room 303

11:00 AM

6:18-20296 Daniel Lee Crump

Chapter 13

#4.00 Motion for Determining Value of Collateral

EH__

Docket 18

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/7/19

Party Information

Debtor(s):

Daniel Lee Crump

Represented By
Nicholas M Wajda

Movant(s):

Daniel Lee Crump

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 21, 2019

Hearing Room 303

11:01 AM

6:17-13686 David K Johnson and Janet L Johnson

Chapter 13

#5.00 CONT Trustee's Motion to Dismiss Case

From: 1/17/19

EH__

Docket 33

Party Information

Debtor(s):

David K Johnson

Represented By
Gary J Holt

Joint Debtor(s):

Janet L Johnson

Represented By
Gary J Holt

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 21, 2019

Hearing Room 303

11:01 AM

6:18-11636 Amanuel Montrell Bradberry and Katrina Lashall

Chapter 13

#6.00 CONT Trustee's Motion to Dismiss Case

From: 12/20/18, 1/17/19

EH__

Docket 42

Party Information

Debtor(s):

Amanuel Montrell Bradberry

Represented By
Gary S Saunders

Joint Debtor(s):

Katrina Lashall Bradberry

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, March 25, 2019

Hearing Room 303

3:00 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#1.00 Motion for Order Authorizing Debtor to Enter Into Insurance Premium Financing Agreement with ClassicPlan Premium Financing, Inc. and Granting of Security Interests Pursuant to Bankruptcy Code Section 364(c)

EH__

Docket 205

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By

James C Bastian Jr

Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:14-20307 Anna M Loconto

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 703 Melissa Court, Beaumont, CA 92223

MOVANT: CALIBER HOME LOANS, INC.

EH__

Docket 71

***** VACATED *** REASON: CASE DISMISSED 3/1/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anna M Loconto

Represented By
Dana Travis

Movant(s):

Caliber Home Loans, Inc.

Represented By
Christina J O
Madison C Wilson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:15-12092 Edilberto Aguirre-Mendoza and Alba Zacarias-Cebrero

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5516 Walter Street, Riverside, CA 92504

MOVANT: U.S. BANK N.A.

EH__

Docket 60

***** VACATED *** REASON: ORDER ENTERED 3/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edilberto Aguirre-Mendoza

Represented By
Matthew D. Resnik

Joint Debtor(s):

Alba Zacarias-Cebrero

Represented By
Matthew D. Resnik

Movant(s):

U.S. Bank, N.A., successor trustee to

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:15-14687 Vernia Jean Mosby

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11582 Holly Oak Dr, Fontana, California 92337

MOVANT: WILMINGTON SAVINGS FUND SOCIETY, FSB

From: 2/26/19

EH__

Docket 111

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Vernia Jean Mosby

Represented By
Nancy Korompis

Movant(s):

Wilmington Savings Fund Society,

Represented By
Arnold L Graff
Joseph C Delmotte
Gilbert R Yabes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

CONT... Vernia Jean Mosby

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 304 Calendar**

Tuesday, March 26, 2019

Hearing Room 304

10:00 AM

6:15-19930 Melinda Kay Allen

Chapter 13

#4.00 CONT Amended Motion (related document(s): 60 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11139 Laurel Ave., Bloomington CA 92316 . filed by Creditor US Bank Trust National Association as Trustee of IGSC Series II Trust) (Zilberstein, Kristin)

MOVANT: US BANK TRUST NA

From: 1/15/19

EH__

Docket 62

Tentative Ruling:

01/15/2019
Service: Proper
Opposition: Yes

The Debtor, after seemingly failing to make payments to Movant for several months, now seeks a continuance based on a loan modification request that she has not yet submitted for review. The Court is inclined to GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay. DENY request for termination of the co-debtor stay based on lack of service on any co-debtor and lack of evidence as to identity of alleged co-debtor. GRANT request under ¶3. DENY request for APO as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Melinda Kay Allen

Represented By
Steven A Alpert

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 304 Calendar**

Tuesday, March 26, 2019

Hearing Room 304

10:00 AM

CONT... Melinda Kay Allen

Chapter 13

Movant(s):

US Bank Trust National Association

Represented By
Kristin A Zilberstein

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:16-15672 Daniel Guerrero and Christina Guerrero

Chapter 13

#5.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 25679 Motte Circle Romoland, CA 92585

MOVANT: CARRINGTON MORTGAGE SERVICES LLC

From: 2/26/19

EH__

Docket 49

***** VACATED *** REASON: ORDER ENTERED 3/12/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Guerrero

Represented By
Gregory M Shanfeld

Joint Debtor(s):

Christina Guerrero

Represented By
Gregory M Shanfeld

Movant(s):

Carrington Mortgage Services, LLC

Represented By
Diana Torres-Brito
Alexander G Meissner
Asya Landa

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:16-16909 Edward Edmund Zozaya and Georgia Parrilla Zozaya

Chapter 13

#6.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 9617 Surrey Ave, Montclair, California 91763

MOVANT: WELLS FARGO BANK, NATIONAL ASSOCIATION

From: 1/29/19, 2/26/19

EH__

Docket 234

Tentative Ruling:

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Edward Edmund Zozaya

Represented By
Dana Travis

Joint Debtor(s):

Georgia Parrilla Zozaya

Represented By
Dana Travis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

CONT... Edward Edmund Zozaya and Georgia Parrilla Zozaya

Chapter 13

Movant(s):

Wells Fargo BAnk, N.A.

Represented By
April Harriott
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:16-20874 Irma Hernandez

Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 14352 La Brisa Road, Victorville, California 92392

MOVANT: U.S. BANK N.A.

EH__

Docket 48

Tentative Ruling:

3/26/2019

Service is Proper

Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Irma Hernandez

Represented By
David T Egli

Movant(s):

U.S. Bank N.A., as trustee, on behalf

Represented By
Robert P Zahradka

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:17-13523 Loretta Chavis

Chapter 13

#8.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 837 Michigan Ave, Beaumont, CA 92223

MOVANT: SUN WEST MORTGAGE COMPANY INC

From: 11/27/18, 1/29/19, 2/26/19

EH__

Docket 26

***** VACATED *** REASON: ORDER ENTERED 3/4/19**

Tentative Ruling:

11/27/2018

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3 and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Loretta Chavis

Represented By
Dan Perry

Movant(s):

Sun West Mortgage Company, Inc.,

Represented By
Nichole Glowin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:17-14228 Michelle Meredith

Chapter 7

#9.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 102 Tesori Drive, Palm Desert, California 92211

MOVANT: OCWEN LOAN SERVICING LLC

From: 11/6/18, 2/5/19

EH__

Docket 128

Tentative Ruling:

11/6/2018

Service is Proper
Opposition: Yes

Movant's sole legal basis for its request for relief from the automatic stay is that Movant is not protected by an adequate equity cushion. As noted by Trustee in its opposition, however, the equity cushion in this case is above the range required by *Mellor* and related case law. Therefore, the Court is inclined to CONTINUE the hearing on the motion for Trustee to market and sell the property.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michelle Meredith

Pro Se

Movant(s):

Ocwen Loan Servicing LLC

Represented By
Sean C Ferry

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

CONT... Michelle Meredith

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Represented By
Noreen A Madoyan
Meghann A Triplett

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:17-14908 Joan Eleanor Demiany

Chapter 13

#10.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 1055 East Via Colusa, Palm Springs, CA 92262

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

From: 9/11/18, 10/30/18, 12/18/18, 2/5/19

EH__

Docket 35

***** VACATED *** REASON: CASE DISMISSED 3/12/19**

Tentative Ruling:

10/30/2018

The Movant submitted evidence that the Debtor is delinquent in the amount of \$30,303.59, having missed 10 postconfirmation payments. The parties stipulated to a continuance of the hearing from September 11, 2018 to this date. The primary basis of opposition appears to be regarding the status of a loan modification application. Parties to update the Court.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joan Eleanor Demiany

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:17-15662 Jemill M Humphrey

Chapter 13

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 571 Lassen Avenue, San Bernardino, CA 92410

MOVANT: HSBC BANK USA NATIONAL ASSOCIATION

EH__

Docket 58

*** VACATED *** REASON: ORDER ENTERED 3/25/19

Tentative Ruling:

3/26/2019

Service is Proper

Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jemill M Humphrey

Represented By
Paul Y Lee

Movant(s):

HSBC Bank USA, National

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:17-15987 Frank Heredia and Virginia Heredia

Chapter 13

#12.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1943 Rainbow Ridge, Corona, California 92882

MOVANT: OCWEN LOAN SERVICING LLC

From: 3/5/19

EH__

Docket 39

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/25/19**

Tentative Ruling:

03/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT relief from § 1301 co-debtor stay. GRANT relief requested under ¶ 3. GRANT waiver of 4001(a)(3) stay. DENY request for APO if not granted.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Frank Heredia

Represented By
Laleh Ensafi

Joint Debtor(s):

Virginia Heredia

Represented By
Laleh Ensafi

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

CONT... Frank Heredia and Virginia Heredia

Chapter 13

Movant(s):

Ocwen Loan Servicing, LLC

Represented By
Kelsey X Luu
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:17-16962 Vanessa Moore-Moreland

Chapter 13

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7801 Celeste Avenue, Fontana, California 92336

MOVANT: U.S. BANK NATIONAL ASSOCIATION

EH__

Docket 41

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Vanessa Moore-Moreland

Represented By
Kirk A Laron

Movant(s):

U.S. Bank National Association, not

Represented By
Nancy L Lee
Gilbert R Yabes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

CONT... Vanessa Moore-Moreland

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:17-17402 Thomas Lee Abercrombie and Rebecca Anne Abercrombie

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2009 Honda Odyssey EX-L Minivan 4D

MOVANT: BALBOA THRIFT & LOAN

EH__

Docket 88

Tentative Ruling:

3/26/2019

Service is Proper

Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Thomas Lee Abercrombie

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Rebecca Anne Abercrombie

Represented By
Rabin J Pournazarian

Movant(s):

Balboa Thrift & Loan

Represented By
Keith E Herron

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

CONT... Thomas Lee Abercrombie and Rebecca Anne Abercrombie

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-10939 Vance Zachary Johnson

Chapter 7

#15.00 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Family Law Litigation

MOVANT: JOANA JOHNSON

EH__

Docket 177

Tentative Ruling:

3/26/2019

On February 7, 2018, Vance Johnson ("Debtor") filed a Chapter 11 voluntary petition. On July 3, 2018, Debtor's case was converted to Chapter 7. Debtor's ex-wife, Joana Johnson ("Movant"), now brings the instant motion for relief from the automatic stay, seeking to return to family court to collect spousal support and, although the details are somewhat unclear, possibly request the suspension or revocation of Debtor's medical license. More specifically, the motion requests an order stating the following:

- (1) the Non-Debtor Spouse, the California Department of Child Support Services, the Riverside County Department of Child Support Services, the Medical Board of California and any appropriate government agencies are authorized to pursue collection remedies against the earnings of the Debtor from the petition date of February 7, 2018 to present to the fullest extent of the law;
- (2) the Non-Debtor Spouse, the California Department of Child Support Services, the Riverside County Department of Child Support Services, the Medical Board of California and any appropriate government agency have the authority to suspend and/or revoke Debtor's medical license for failure to pay domestic support obligations, including child support and spousal support, to the full extent allowed by law;
- (3) that the Non-Debtor spouse may proceed in any governmental entity, including the Superior Court of California, to commence or continue any proceeding relating to child support and/or spousal support over or alleged to be owed by

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10:00 AM

CONT... **Vance Zachary Johnson**
the Debtor.

Chapter 7

[Dkt. No. 177, Memo. of P's and A's, pg. 2-3]. The Court notes that Debtor has not filed any opposition to the instant motion.

In support of her motion, Movant invokes three statutory provisions to argue that the automatic stay is not applicable to her requests for relief. First, Movant cites 11 U.S.C. § 362(b)(2)(D), which provides that the automatic stay does not apply to "the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license under state law." The Court is not aware of any legal provision which would exclude a medical license from the category of professional licenses. As a result, it appears clear that the second request stated above is not stayed by § 362. While Movant has provided brief argumentation as to why the suspension or revocation of Debtor's medical license may be warranted, this Court's review of those arguments does not appear appropriate.

Next, Movant cites § 362(b)(2)(C), which states that the automatic stay does not apply "with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute." Movant has not really briefed how she believes this provision applies to the instant case, but it does not appear to be directly relevant. *See, e.g.*, 3 COLLIER'S ON BANKRUPTCY ¶ 362.05[2] (16th ed. 2016) ("Section 362(b)(2)(C) provides an exception to the stay with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute. The effect of this amendment is primarily seen in chapter 11 cases filed by an individual debtor and chapter 13 proceedings.").

Finally, Movant cites § 362(b)(2)(B) which provides that the automatic stay does not apply to "the collection of a domestic support obligation from property that is not property of the estate." Due to the operation of § 541, § 362(b)(2)(B) provides a clear avenue for Movant to collect on property, including "earnings from services performed," acquired by Debtor after conversion of the case.

Movant further argues that the earnings from services performed postpetition but preconversion, which were property of the estate prior to conversion due to the

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10:00 AM

CONT... Vance Zachary Johnson

Chapter 7

operation of 11 U.S.C. § 1115(a), were no longer property of the estate once the case was converted. Movant cites *In re Markosian*, 506 B.R. 273 (B.A.P. 9th Cir. 2014) in support of the argument. The Court notes that *In re Markosian* is the minority position on the issue. For the reasons stated in *In Matter of Freeman*, 527 B.R. 780 (Bankr. N.D. Ga. 2015), *In re Meier*, 528 B.R. 162 (Bankr. N.D. Ill. 2015), and *In re Gorniak*, 549 B.R. 721 (Bankr. W.D. Wis. 2016), all of which explicitly rejected *In re Markosian* and the statutory interpretation contained therein, the Court is inclined to disagree with Movant's position on this issue. Recognizing the relative novelty of the issue, however, the Movant will be permitted an opportunity to file a supplemental brief on this narrow issue if so desired.

Tentative Ruling:

The Court is inclined to GRANT the motion with the modification that Movant is only permitted to pursue collection remedies against property that is not property of the estate. Furthermore, as a matter of law the Court is inclined to find that earnings from services performed postpetition but preconversion are property of the estate.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Movant(s):

Joana Johnson

Represented By
Scott Talkov

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

**United States Bankruptcy Court
Central District of California
Riverside
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Hearing Room 303

10:00 AM

6:18-11081 Stephen Daniel Payan

Chapter 13

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1022 West 7th Street, Corona, CA 92882

MOVANT: PINGORA LOAN SERVICING LLC

EH__

Docket 46

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from § 1301(a) co-debtor stay and otherwise GRANT the motion in accordance with the adequate protection stipulation filed on March 21 [Dkt. No. 48].

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Stephen Daniel Payan

Represented By
Paul J Kurtzhall

Movant(s):

Pingora Loan Servicing, LLC

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

10:00 AM

6:18-11476 Randy Saulsberry and Kimberly E May

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2011 NISSAN VERSA, VIN # 3N1BC1CP9BL367969

MOVANT: US ACCEPTANCE

EH__

Docket 45

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). DENY request for relief pursuant to § 362(d)(2) for lack of cause shown. Specifically, the motion fails to establish that the collateral is not necessary to an effective reorganization and fails to establish that there is no equity in the collateral. GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Randy Saulsberry

Represented By
David L Nelson

Joint Debtor(s):

Kimberly E May

Represented By
David L Nelson

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10:00 AM

CONT... Randy Saulsberry and Kimberly E May

Chapter 13

Movant(s):

U.S. ACCEPTANCE, LLC

Represented By
Michael D Vanlochem

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-11770 Raymond Burrola and Estela Burrola

Chapter 13

#18.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Nissan Altima, VIN: 1N4AL3AP6DN489947

MOVANT: AMERICREDIT FINANCIAL SERVICES, INC

From: 3/5/19

EH__

Docket 58

***** VACATED *** REASON: ORDER ENTERED 3/15/19**

Tentative Ruling:

03/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
DENY APO as moot.

APPEARANCES WAIVED. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Raymond Burrola

Represented By
Elena Steers

Joint Debtor(s):

Estela Burrola

Represented By
Elena Steers

Movant(s):

AmeriCredit Financial Services, Inc.

Represented By
Jennifer H Wang

**United States Bankruptcy Court
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10:00 AM

CONT... Raymond Burrola and Estela Burrola

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-12099 James David Wilson, IV and Kerri Ann Wilson

Chapter 13

#19.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 18804 Hinton Street, Hesperia, California, 92345-6970

MOVANT: FREEDOM MORTGAGE CORPORATION

From: 3/5/19

EH__

Docket 34

*** VACATED *** REASON: ORDER ENTERED 3/21/19

Tentative Ruling:

03/05/2019

Service: Proper

Opposition: Yes

The Debtor asserts more payments were made than were accounted for by the Movant. Certainly, a comparison of the Debtor's Supplement, the Movant's Declaration and Exhibit 4 indicate that at least one \$2,300 payment was made after the Movant received the \$2,369.11 payment in October. Much of the confusion is caused by the irregularity of the date the payments are sent out by the Debtors. The due date is the 18th of each month. However, payments are sent by the Debtors alternately at the beginning, middle and end of months. Nevertheless, based on the Debtor's evidence it appears that when the Motion was filed on February 6, 2019, Debtors would only have been late on their January payment.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

James David Wilson IV

Represented By
Dina Farhat

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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10:00 AM

CONT... James David Wilson, IV and Kerri Ann Wilson

Chapter 13

Joint Debtor(s):

Kerri Ann Wilson

Represented By
Dina Farhat

Movant(s):

Freedom Mortgage Corporation

Represented By
Christina J O

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-12822 Cynthia Miller

Chapter 13

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15036 Daffodil Circle, Fontana, CA 92336

MOVANT: WELLS FARGO BANK, N.A.

EH__

Docket 42

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: Late

Parties to apprise Court of status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Cynthia Miller

Represented By
Richard L Barrett

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-14053 Wallace Stanton Miles

Chapter 13

#21.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2006 Ford F150, VIN: 1FTRX12W76KB27500

MOVANT: SANTANDER CONSUMER USA INC.

From: 3/5/19

EH__

Docket 36

***** VACATED *** REASON: ORDER ENTERED 3/18/19**

Tentative Ruling:

03/05/2019
Service is Proper
Opposition: None

GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay.
DENY APO request as moot.

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Wallace Stanton Miles

Represented By
Stuart G Steingraber

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

10:00 AM

6:18-14725 Percylyn Agustin Basa

Chapter 13

#22.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 14623 Meadowsweet Dr Eastvale, CA 92880

MOVANT: NATIONSTAR MORTGAGE LLC dba MR COOPER

From: 1/8/19, 2/5/19, 2/26/19

EH__

Docket 56

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: Yes

Movant to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Percylyn Agustin Basa

Represented By
Benjamin R Heston

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Angie M Marth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-15022 Rafael Alvarez Martinez

Chapter 7

#23.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 NISSAN Frontier Crew Cab SV Pickup 4D 5 Ft

MOVANT: CAPITAL ONE AUTO FINANCE

EH ____

Docket 27

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Rafael Alvarez Martinez

Represented By
Kevin J Kunde

Movant(s):

Capital One Auto Finance, a division

Represented By
Cheryl A Skigin

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Hearing Room 303

10:00 AM

6:18-16905 Tina M Coca

Chapter 7

#24.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 48 SMX Capital SMX250P Panels, 2 Power One: PVI-6000 Inverters, racking system, mounting hardware, wiring; Size 12.000kW (DC) located at 2345 Cornell Circle, Corona, CA 92881. (12.000 kW Solar Photovoltaic System)

MOVANT: SOLARMAX RENEWABLE ENERGY PROVIDER, INC

EH ____

Docket 22

Tentative Ruling:

3/26/2019

Service is Improper
Opposition: None

The Court notes that Movant appears to have omitted the proof of service from the instant motion. Therefore, the motion fails to comply with Local Rule 4001-(1)(c), and the Court is inclined to DENY the motion in its entirety.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Tina M Coca

Represented By
Emilia N McAfee

Movant(s):

Solarmax Renewable Energy

Represented By
Alexander G Meissner

**United States Bankruptcy Court
Central District of California
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

CONT... Tina M Coca

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-17597 David Meisland

Chapter 13

#25.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 26818 Montseratt Court, Murrieta, California 92563

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

EH__

Docket 39

Tentative Ruling:

3/26/2019

Service is Proper

Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David Meisland

Represented By
Nima S Vokshori

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-18413 Joseph A Hamburger and Kara L Hamburger

Chapter 13

#26.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Toyota Tacoma

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH__

Docket 36

***** VACATED *** REASON: ORDER ENTERED 3/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph A Hamburger

Represented By
Paul Y Lee

Joint Debtor(s):

Kara L Hamburger

Represented By
Paul Y Lee

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-18827 Myloan Thi Truong

Chapter 7

#27.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Nissan Rogue, VIN: KNMAT2MT2HP603644

MOVANT: TD AUTO FINANCE LLC

EH__

Docket 28

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Myloan Thi Truong

Pro Se

Movant(s):

TD Auto Finance LLC

Represented By
Sheryl K Ith
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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10:00 AM

CONT... Myloan Thi Truong

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-19281 Michael Talbot

Chapter 7

#28.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 989 S Calle Paul, Palm Springs, California 92264

MOVANT: PENNYMAC LOAN SERVICES LLC

EH__

Docket 31

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Talbot

Represented By
Ryan A. Stubbe

Movant(s):

PennyMac Loan Services, LLC

Represented By
Robert P Zahradka

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-19376 Matthew J Whyte and Laura M Whyte

Chapter 13

#29.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 74747 King Fisher Circle, Palm Desert, California 92260

MOVANT: WELLS FARGO BANK, N.A.

From: 2/26/19

EH__

Docket 28

***** VACATED *** REASON: ORDER ENTERED 3/12/19**

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: Yes

Regarding Movant's argument that the automatic stay has terminated in the instant case, Movant's assertion is incorrect because 11 U.S.C. § 362(c)(3) only applies when a previous case has been dismissed. Here, Debtors' only previous case in the year prior to the petition date of the instant case resulted in a discharge. Therefore, the Court will DENY the request for relief under ¶ 14.

Regarding Movant's argument that the case was filed in bad faith due to previous bankruptcy filings, the Court notes that Debtors have two previous filings, both Chapter 7 cases which resulted in discharge. The instant case is a Chapter 13 proceeding, making this case what is commonly referred to as a Chapter 20 case. It has been uniformly established that the filing of a Chapter 13 case shortly after receiving a Chapter 7 discharge does not constitute bad faith. Therefore, the Court will DENY the request for relief pursuant to § 362(d)(4).

Regarding the remainder of Movant's requests, the parties are to apprise the Court regarding the status of the arrears and adequate protection discussions, if any.

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Judge Mark Houle, Presiding
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Hearing Room 303

10:00 AM

CONT... Matthew J Whyte and Laura M Whyte

Chapter 13

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Matthew J Whyte

Represented By
William J Howell

Joint Debtor(s):

Laura M Whyte

Represented By
William J Howell

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
Gilbert R Yabes
Yadira P Delgado

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-19842 Jody L Weikal and Kevin Turner

Chapter 7

#30.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1940 Fan Palm Way, Palm Springs, CA 92262

MOVANT: JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

EH__

Docket 13

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to §§ 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2, 3 and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jody L Weikal

Represented By
Curtis A Cavalletto

Joint Debtor(s):

Kevin Turner

Represented By
Curtis A Cavalletto

Movant(s):

JPMorgan Chase Bank, National

Represented By
Nancy L Lee

**United States Bankruptcy Court
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10:00 AM

CONT... Jody L Weikal and Kevin Turner

Chapter 7

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:18-20410 Pamela M Bradford

Chapter 13

#31.00 Notice of Motion and 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) 5744 Alexandria Ave., Corona, CA .

MOVANT: U.S. BANK, NATIONAL ASSOC. AS LEGAL TITLE TRUSTEE FOR TRUMAN 2016 SC6 TITLE TRUST

EH__

Docket 19

***** VACATED *** REASON: CASE DISMISSED 3/7/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pamela M Bradford

Represented By
James D. Hornbuckle

Movant(s):

U.S. Bank National Association as

Represented By
Diane Weifenbach

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Courtroom 303 Calendar**

Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:19-10236 Julio Alejandro Rodriguez-Flock

Chapter 7

#32.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 HONDA ACCORD, VIN: 1HGC R2F8 2FA1 85099

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

Docket 11

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Julio Alejandro Rodriguez-Flock

Represented By
Edgar P Lombera

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

**United States Bankruptcy Court
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10:00 AM

CONT... Julio Alejandro Rodriguez-Flock

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:19-10297 Denise Ann Vargas

Chapter 7

#33.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 29045 Avocado Way, Lake Elsinore, California 92530

MOVANT: THE COLEMAN FAMILY TRUST DATED AUGUST 18, 1998

EH__

Docket 20

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Denise Ann Vargas

Represented By
Todd L Turoci

Movant(s):

The Coleman Family Trust dated

Represented By
Julian K Bach

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:19-10571 Edwin Elias Urbina

Chapter 7

#34.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA ACCORD, VIN: JHMC R6F7 7HC0 13878

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

Docket 13

Tentative Ruling:

3/26/2019

Service is Proper

Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Edwin Elias Urbina

Represented By
Gary S Saunders

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

**United States Bankruptcy Court
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Tuesday, March 26, 2019

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10:00 AM

CONT... Edwin Elias Urbina

Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:19-10648 Margaret E Wray and Gregory G Wray

Chapter 7

#35.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 40681 Via Diamante, Murrieta, CA 92562

MOVANT: BAYVIEW LOAN SERVICING LLC

EH__

Docket 8

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Margaret E Wray

Represented By
Tom A Moore

Joint Debtor(s):

Gregory G Wray

Represented By
Tom A Moore

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney

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10:00 AM

CONT... Margaret E Wray and Gregory G Wray

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

10:00 AM

6:19-10990 David Sandoval and Mary Celine Sandoval

Chapter 13

#36.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 35816 Country Ridge Road, Yucaipa, CA 92399 and as to All other Creditors.

MOVANT: DAVID AND MARY CELINE SANDOVAL

From: 3/5/19

EH__

Docket 20

***** VACATED *** REASON: ORDER ENTERED 3/21/19**

Tentative Ruling:

03/05/2019

Service: Proper
Opposition: Yes

As a threshold matter, the Debtors indicated that the Motion was served on regular notice. It was not. The Motion was filed on February 13, 2019. Regular notice on a Motion filed on that date would not have run until March 6, 2019. The opposition was then filed on February 25, 2019, by Secured Creditor Wilmington Trust ("Creditor").

Creditor asserts that the Debtors' prior case was dismissed due to the Debtors' inability to perform as to the terms of the confirmed plan. The dismissal was precipitated by Wilmington Trust's notification to the Trustee that the Debtors were not current on their post-petition payments which eventually formed the basis for the dismissal of the prior case.

The presumption that the case was not filed in good faith arises due to the failure to perform the terms of the confirmed plan in their prior case. To overcome the presumption, the Debtors assert they now have sufficient income to fund a feasible plan because (1) Debtor Wife has experienced an increase in income of \$700 per month, (2) Debtor Wife's parents are contributing \$1,200 per month to the Debtors;

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CONT... David Sandoval and Mary Celine Sandoval

Chapter 13

(3) Debtors are no longer supporting their children because they have now graduated from college. The Motion is supported only by the declaration of the Debtor.

Creditor in its opposition asserts that the statements regarding the Debtors' family contributions are unsupported by any evidence and the Court agrees. Section 362(c)(3) explicitly requires clear and convincing evidence to overcome the presumption that the case was not filed in good faith. In reply, the Debtors have provided a declaration from the Debtors' family members asserting that they will contribute \$1,200 monthly for 60 months towards the Debtors' plan. The Declaration further indicates that the Robert and Ann Sroufe are currently residing with the Debtors.

Based on the supplemental evidence, the Court is inclined to find that the Debtors have sufficiently improved their financial condition to warrant a finding that by clear and convincing evidence the presumption under § 362(c)(3) has been overcome. However, the Court believes a stay-current APO is warranted under the circumstances.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David Sandoval

Represented By
Bryant C MacDonald

Joint Debtor(s):

Mary Celine Sandoval

Represented By
Bryant C MacDonald

Movant(s):

David Sandoval

Represented By
Bryant C MacDonald

Mary Celine Sandoval

Represented By
Bryant C MacDonald

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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CONT... David Sandoval and Mary Celine Sandoval

Chapter 13

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, March 26, 2019

Hearing Room 303

10:00 AM

6:19-11079 Juan Carlos Cardenas and Marisol Isabel Cardenas

Chapter 7

#37.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 HONDA ACCORD, VIN: 1HGC V1F3 OJA0 08425

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

Docket 14

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Juan Carlos Cardenas

Represented By
Roland D Tweed

Joint Debtor(s):

Marisol Isabel Cardenas

Represented By
Roland D Tweed

**United States Bankruptcy Court
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10:00 AM

CONT... Juan Carlos Cardenas and Marisol Isabel Cardenas

Chapter 7

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

Trustee(s):

Karl T Anderson (TR)

Pro Se

United States Bankruptcy Court
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10:00 AM

6:19-11385 Jeffrey Pierce

Chapter 13

#38.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 887 River Rd. #309, Corona, CA 92880

MOVANT: STEADFAST RIVER RUN L.P.

EH__

Docket 8

*** VACATED *** REASON: CASE DISMISSED 3/12/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey Pierce

Pro Se

Movant(s):

Steadfast River Run L.P.

Represented By
Scott Andrews

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

10:00 AM

6:19-11431 Olivia Susana Norris

Chapter 13

#39.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

MOVANT: OLIVIA SUSANA NORRIS

EH__

Docket 9

Tentative Ruling:

3/26/2019

The instant motion was not served on the secured creditor pursuant to FED. R. BANKR. P. Rule 7004, which is required pursuant to Judge Houle's procedures. Furthermore, the secured creditor is not named on the caption page, or on section (3)(a) of the motion. Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Olivia Susana Norris

Represented By
Gary S Saunders

Movant(s):

Olivia Susana Norris

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

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10:00 AM

6:19-11586 Jerome D Williams

Chapter 13

#40.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: JEROME D WILLIAMS

EH__

Docket 10

Tentative Ruling:

3/26/2019

The Court, having reviewed the motion, is inclined to DENY the motion for lack of cause shown. The Court notes that the motion does not contain the level of detail and specificity required to meet the "clear and convincing" necessary to rebut the presumption of bad faith contained in 11 U.S.C. § 362(c)(3)(C). Specifically, the motion does not provide the Court with information which would enable the Court to assess the relevant changes in Debtor's financial situation.

APPEARANCES REQUIRED,

Party Information

Debtor(s):

Jerome D Williams

Represented By
Christopher J Langley

Movant(s):

Jerome D Williams

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

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10:00 AM

6:19-11792 Clifford Leon Parks

Chapter 13

#41.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property located at 3980 Polk St., Unit B, Riverside, CA 92505

MOVANT: CLIFFORD LEON PARKS

EH__

Docket 14

Tentative Ruling:

3/26/2019

The Court having reviewed the motion, notice appearing proper and good cause appearing, the Court is inclined to GRANT the motion, CONTINUING the automatic stay as to all creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Clifford Leon Parks

Represented By
Todd L Turoci

Movant(s):

Clifford Leon Parks

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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Hearing Room 303

10:00 AM

6:19-11825 Peggy Thiel

Chapter 7

#42.00 Amended Motion (related document(s): 8 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 33410 Biltmore Drive, Temecula, CA 92592

MOVANT: LUIS O SOTO AND MARCIA L. SOTO

EH__

Docket 11

Tentative Ruling:

3/26/2019

Service is Proper

Opposition: Yes

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). DENY requests for confirmation that stay is not in effect because Movants have not demonstrated that either § 362(b)(22) or § 362(b)(23) is applicable to the instant situation. DENY request for annulment of automatic stay because motion does not cite any grounds in support of the request. GRANT waiver of Rule 4001(a) stay. DENY requests under ¶¶ 7, 9, 10, and 11 for lack of cause shown. DENY alternative request under ¶ 12 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Peggy Thiel

Pro Se

Movant(s):

Marcia L Soto

Represented By
Samuel J St Romain

Luis O Soto

Represented By

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CONT... Peggy Thiel

Chapter 7

Samuel J St Romain

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:19-11713 Roger Adams

Chapter 7

#42.10 Amended Motion (related document(s): 7 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 3207 Crystal Lake Court, Ontario, CA . filed by Interested Party Plan River Investments LLC)

MOVANT: PLAN RIVER INVESTMENT LLC

EH__

Docket 10

***** VACATED *** REASON: CASE DISMISSED 3/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roger Adams

Pro Se

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:18-13481 Rorye James Mosley, Sr.

Chapter 13

#43.00 CONT Order To Show Cause Why Brian Soo-Hoo Should Not Be Sanctioned In The Amount Of \$1,000

From: 1/29/19

EH__

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rorye James Mosley Sr.

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01112 David M. Goodrich, Chapter 11 Trustee v. Source Medical Billing &

#44.00 CONT Status Conference RE: Complaint by David M. Goodrich, Chapter 11 Trustee against Source Medical Billing & Collection, Inc, a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer))

From: 7/10/18, 8/21/18, 1/8/19

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 3/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Source Medical Billing &

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

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CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
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2:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#45.00 Order (1) Setting Scheduling Hearing And Case Management Conference And
(2) Requiring Status Report

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

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2:00 PM

6:18-11806 Rick's Patio Inc

Chapter 11

#46.00 Motion for Approval of First and Final Professional Fees and Expenses; Memorandum of Points and Authorities; Declarations of Douglas MacRae and Richard Joseph Colosimo in Support thereof

Also #47

EH__

Docket 104

Tentative Ruling:

3/26/19

On March 7, 2018, Rick's Patio, Inc. ("Debtor") filed a Chapter 11 voluntary petition. On May 4, 2018, the Court approved the application to employ Rosenstein & Associates ("Counsel") as bankruptcy counsel. On August 7, 2018, the Court approved the application to employ Shafer & MacRae ("Accountant") as accountant. After an extension of the applicable deadline, Debtor's Chapter 11 disclosure statement was approved on October 3, 2018, and Debtor's Chapter 11 plan was confirmed on December 17, 2018.

On February 28, 2019, two applications for approval of fees were filed. First, Accountant filed an application requesting \$3,300 in fees. Additionally, Counsel filed an application requesting an aggregate of \$12,256.41 in fees and costs. The Court notes that notice and service appear proper, no party has filed an opposition, and the applications contain a declaration from one of Debtor's principals stating that Debtor supports the fees as requested.

The Court notes, however, that the applications fail to comply with various provisions of the Local Rules. For instance, the applications do not disclose the current cash on hand as required by Local Rule 2016-(1)(a)(1)(A)(iii). Additionally, the applications do not contain a description of the education/experience of each of the relevant professionals, as required by Local Rule 2016-1(a)(1)(H).

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CONT... Rick's Patio Inc

Chapter 11

Regarding the substance of the fee applications, the Court, having reviewed the applications, finds that the amounts requested are generally reasonable pursuant to the factors set forth in 11 U.S.C. § 330(a)(3). The Court specifically notes that Counsel has "no-costed" a significant amount of the work performed in the instant case, due to events that transpired in a previous case. On that basis, the Court will waive the compliance failures noted above.

The Court is inclined to APPROVE the applications in the amounts requested.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Rick's Patio Inc

Represented By
Robert B Rosenstein

Movant(s):

Rick's Patio Inc

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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2:00 PM

6:18-11806 Rick's Patio Inc

Chapter 11

#47.00 Motion for Approval of First and Final Professional Fees and Expenses;
Memorandum of Points and Authorities; Declarations of Robert B. Rosenstein
and Richard Joseph Colosimo in Support thereof

Also #46

EH__

Docket 105

Tentative Ruling:

See #46.

Party Information

Debtor(s):

Rick's Patio Inc

Represented By
Robert B Rosenstein

Movant(s):

Rick's Patio Inc

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#48.00 CONT Application for Compensation for Nicholas W Gebelt, Debtor's Attorney,
Period: 1/26/2018 to 11/21/2018, Fee: \$31,465.00, Expenses: \$673.89.

From: 1/8/19, 1/29/19

EH__

Docket 95

***** VACATED *** REASON: CONTINUED TO 4/16/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

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Hearing Room 303

2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

#49.00 CONT Motion to Allow Claim 9,10,11 Approve Temporary Allowance Under FRBP 3018(a)

From: 3/5/19

Also #50 & #51

EH__

Docket 152

Tentative Ruling:

MARCH 5, 2019

BACKGROUND

On March 27, 2018, G Hurtado Construction, Inc. ("Debtor") filed its petition for chapter 11 relief. The bankruptcy was precipitated by a wage and hour lawsuit brought by two and possibly more former employees. Catana and Faustino v. G Hurtado Construction, Inc. On May 9, 2018, the Debtor issued a Notice of Bar Date indicating that the Court set a deadline of July 13, 2018 ("Bar Date"), for creditors to file proofs of claims against the Debtor's estate.

On July 16, 2018, the following claims were filed: Claim #9 by Donahoo & Associates, PC in the amount of \$134,475.02, Claim #10 by Juan Catano in the amount of \$230,081.64, Claim #11 by Faustino Magana in the amount of \$101,240.04 (collectively, "Litigation Claimants")

On August 29, 2018, the Litigation Claimants filed a motion to allow their late-filed claims. On October 10, 2018, the Court granted the motion and entered its order allowing Claims 9, 10, and 11 (the "Disputed Claims"). Following the allowance of the Disputed Claims, the Debtor filed an amended disclosure statement and plan to provide for treatment of the Disputed Claims on October 9, 2018. Following comments from the Court regarding the Debtor's First Amended Disclosure Statement, the Debtor filed the Second Amended Disclosure Statement and Plan on November 16, 2018. On November 27, 2018, the Litigation Claimants filed a motion for relief from the automatic stay ("RFS Motion") seeking to have the Disputed Claims determined via an arbitration proceeding which had been commenced prepetition. On December 3, 2018, the Debtor filed a complaint against

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CONT... G Hurtado Construction, Inc.

Chapter 11

the Litigation Claimants objecting to their claims (the "Objection"). On December 18, 2018, a hearing was held at which the Court approved the Debtor's Second Amended DS and granted in part and denied in part the RFS Motion. On January 2, 2019, the Court entered its Order approving the Second Amended DS and providing deadlines for balloting and objections (the "Order"). The Order required that objections to the plan be filed no later than February 19, 2019, and that completed ballots were due returned by January 22, 2019. On January 3, 2019, the Litigation Claimants and Debtor stipulated to holding the Objection proceeding in abeyance pending the conclusion of the arbitration. The Court entered its order approving the stipulation on February 4, 2019. On February 4, 2019, the Debtor filed its Brief in Support of Confirmation (the "Brief"). The Brief indicated, in pertinent part, that Class 6 members, the Class designated for treatment of the Litigation Claimants' Disputed Claims were not eligible to vote under § 1126 based on the filing of the Objection.

On February 12, 2019, a Motion to Temporarily Allow the Disputed Claims under FRBP 3018(a) followed (the "Motion"). Opposition to the Motion was filed on February 19, 2019 ("Opposition"), and a reply to the Opposition was filed on February 26, 2019 ("Reply").

DISCUSSION

Section 1126(a) of the Bankruptcy Code provides that only holders of allowed claims or interests may vote to accept or reject a plan. Section 502(a) of the Bankruptcy Code provides that a claim is deemed allowed unless a party in interest objects. A creditor whose claim is objected to "is therefore disenfranchised from voting on the plan unless the objection is adjudicated prior to plan voting, or a mechanism, such as temporary allowance, is provided for." *In re Stone Hedge Props. v. Phoenix Capital Corp.* (In re Stone Hedge Props.), 191 B.R. 59, 63 (Bankr.M.D.Pa.1995). The mechanism for temporary allowance is provided by Bankruptcy Rule 3018. The policy behind temporary allowance is to prevent possible abuse by plan proponents who might ensure acceptance of a plan by filing last minute objections to the claims of dissenting creditors. *In re Armstrong*, 294 B.R. 344 (10th Cir.BAP2003), aff'd 97 Fed. Appx. 285 (10th Cir.2004). The ultimate determination of whether to temporarily allow a claim for voting purposes is within the Court's sound discretion. *Id.*; *In re Ralph Lauren Womenswear, Inc.*, 197 B.R. 771, 775 (Bankr.S.D.N.Y.1996). Like estimation under section 502, neither the Bankruptcy Code nor the Bankruptcy Rules provide guidance on a methodology to be used but commend the determination to the court's discretion. *In re Pac. Sunwear of California, Inc.*, 2016 WL 4250681, at *3 (Bankr. D. Del. Aug. 8, 2016) (internal citations omitted). Courts tend to look at the debtor's schedules, the proof of claim, and the objection filed to the proof of claim. *Id.* At least one court has suggested that a

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CONT... G Hurtado Construction, Inc.

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determination under Rule 3018 "should ensure that the voting power is commensurate with the creditor's economic interests in the case." *Id.*

As a threshold matter, FRBP 3018 is silent regarding the appropriate deadline for parties to bring a motion to temporarily allow a claim for purposes of voting. In *In re M. Long Arabians*, the trial court had indicated that since a creditor did not seek temporary allowance of its claim, pursuant to Bankruptcy Rule 3018(a)(2), prior to the confirmation hearing, that creditor's claim was deemed not allowed under Section 502(a). 103 B.R. 211, 214 (B.A.P. 9th Cir. 1989). On appeal, the BAP affirmed the trial court's finding and stated that the creditor could not have voted on the Plan unless it sought a *timely* allowance of its claims under Bankruptcy Rule 3018. *Id.* at 215 (internal citations omitted). Similarly, in *Jacksonville Airport, Inc. v. Michkeldel, Inc.*, the Fourth Circuit considered the issue of timing where a motion for temporary allowance of a claim was not filed until after the deadline for voting on the plan. 434 F.3d 729, 732 (4th Cir. 2006). In that case, the Fourth Circuit affirmed the trial court's order denying a motion to reconsider the confirmation order finding that the creditor did not have a right to vote on the debtor's plan, and implicitly finding that the motion for temporary allowance must be filed prior to the deadline for voting. *See id.*

For their part, the Litigation Claimants have cited to cases outside the Ninth Circuit in which trial court judges focused heavily on the equities facing the creditors seeking temporary allowance rather than any strict timelines. Debtor, however, responds that *Stone Hedge Properties v. Phoenix Capital Corp. (In re Stone Hedge Properties)*, 191 B.R. 59 (Bankr. M.D. Pa. 1995) ("Stone Hedge") and *In re Goldstein*, 114 BR 430, 434 (Bankr. E.D. Pa. 1990) both dealt with situations where the creditors were being ambushed by the debtors.

Here, the Court is simply not persuaded that the Litigation Claimants' position is defensible. As an aside, the Court was indulgent when the Litigations Claimants filed their Disputed Claims after the bar date and, in that situation, found sufficient cause existed to excuse the failure to timely file the claims. However, where here, the Litigation Claimants have actively participated in objecting to their treatment by the Debtor from the inception of the case and where they filed oppositions to Debtor's proposed disclosure statements and a RFS Motion, there is no apparent basis to excuse the Litigation Claimants from their responsibility to have apprised themselves of their own duties with respect to voting – a vote that they undoubtedly always intended to exercise. Further, unlike the cases cited by the Litigation Claimants, the Objection was filed in early December and it was the Litigations Claimants' responsibility to apprise themselves of the consequences engendered by the filing of the Objection. Having considered the equities presented by both sides and the legal authorities, the Court is persuaded that (1) absent evidence that a debtor's objection was filed so close in time to the confirmation hearing such that the effect would have

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been to ambush the creditor, a motion to temporarily allow a claim must be filed and heard prior to the deadline to cast a vote; and (2) here, the record indicates that the creditor was not ambushed.

TENTATIVE RULING

Based on the foregoing, the Court is inclined to DENY the Motion for temporary allowance.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

Movant(s):

Donahoo & Associates, PC

Represented By
Richard E Donahoo

Faustino Magana

Represented By
Richard E Donahoo

Juan Catano

Represented By
Richard E Donahoo

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6:18-12807 G Hurtado Construction, Inc.

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#50.00 CONT Confirmation of Chapter 11 Plan

From: 3/5/19

Also #49 & #51

EH__

Docket 105

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

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6:18-12807 G Hurtado Construction, Inc.

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#51.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/8/18, 8/21/18, 9/11/18, 9/25/18, 10/30/18, 11/6/18, 12/18/18, 3/5/19

Also #49 & #50

EH__

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

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6:14-16813 M. A. Tabor

Chapter 7

Adv#: 6:16-01128 Frealy v. Trotochau et al

#1.00 CONT Application and Order for Appearance and Examination

From: 12/5/18, 12/11/18, 12/20/18, 2/27/19

EH ____

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

M. A. Tabor

Represented By
Judith Runyon

Defendant(s):

Robin Sherrie Trotochau

Pro Se

Pacific Mortgage Exchange, Inc.

Represented By
Leib M Lerner

Movant(s):

Todd A. Frealy

Represented By
Anthony A Friedman
Lindsey L Smith

Plaintiff(s):

Todd A. Frealy

Represented By
Anthony A Friedman
Lindsey L Smith

Trustee(s):

Todd A. Frealy (TR)

Represented By

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M. A. Tabor

Anthony A Friedman
Lindsey L Smith

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6:18-20477 Connie Gutierrez

Chapter 7

Adv#: 6:19-01028 Whitmore v. Gutierrez et al

#2.00 CONT Order To Show Cause RE: [2] Motion for a temporary restraining order without notice, and (2) an order to show cause why a preliminary injunction should not be issued

From: 2/27/19

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Connie Gutierrez

Represented By
Keith Q Nguyen

Defendant(s):

Daniel Gutierrez

Represented By
Lane K Bogard

Toby Gutierrez

Pro Se

Movant(s):

Robert S. Whitmore

Represented By
Julie Philippi

Plaintiff(s):

Robert S. Whitmore

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By

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Connie Gutierrez

Julie Philippi

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6:18-20477 Connie Gutierrez

Chapter 7

#3.00 Motion to Dismiss Debtor's Chapter 7 Bankruptcy Case Pursuant to 11 USC 707(A)

EH ____

Docket 14

Tentative Ruling:

3/27/2019

BACKGROUND

On December 14, 2018, Connie Gutierrez ("Debtor") filed a Chapter 7 voluntary petition. On February 5, 2019, Trustee filed a complaint to avoid a fraudulent transfer. The defendants in the adversary proceeding are Daniel Gutierrez ("Daniel") and Toby Gutierrez ("Toby"), Debtor's sons, who are apparently estranged from each other. On February 6, 2019, the Court entered a temporary restraining order (the "TRO"), and set a hearing on a preliminary injunction. The TRO was issued to prohibit Daniel and Toby from transferring certain proceeds of the sale of real property, which they received from Debtor in 2017.

On February 20, 2019, Daniel filed a motion to dismiss the main bankruptcy case pursuant to 11 U.S.C. § 707(A). Daniel's primary argument in support of dismissal is that the instant bankruptcy case was filed by Toby, and that Toby lacked the authority to file the case. Daniel also briefly argues that Debtor has not adequately performed her duties as a debtor. On March 13, 2019, Trustee filed his opposition to the motion to dismiss. In support of the opposition, Trustee argues that: (1) Daniel lacks standing to bring the instant motion; (2) Toby had authority to file the bankruptcy, or, alternatively, that the filing was subsequently ratified; (3) dismissal would be prejudicial to creditors; and (4) dismissal would be prejudicial to Debtor.

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Of additional note is that Debtor filed a motion to appoint Toby as her next friend on December 31, 2018. No action has been taken on the motion, however, and the motion appears to be procedurally improper.

DISCUSSION

I. PREJUDICE TO CREDITORS/DEBTOR

Trustee has not cited to any legal provision or case law in support of its contention that the Court should consider prejudice to creditors in this situation. While prejudice to creditors is certainly relevant in the context of some motions to dismiss, the factor is wholly inappropriate when the validity of the bankruptcy filing itself is at issue. In the absence of any legal support for this proposition, the Court is inclined to summarily reject the argument.

Similarly, the Court finds it inappropriate to separately analyze whether dismissal of the bankruptcy would be prejudicial to Debtor, at least on the record before the Court. Regardless of whether the prosecution of the bankruptcy case would be beneficial to Debtor, it is Debtor, or Debtor's appropriate representative, who is entitled to make that determination, not Trustee. If a determination is ultimately made that it is in the best interests of Debtor to continue with the case, Debtor may ratify the instant filing, as more fully stated below.

II. STANDING

An additional argument made by Trustee in opposition to the motion to dismiss is that Daniel lacks standing to bring the motion. Trustee appropriately cites the recitation of constitutional standing contained in *In re Sherman*, 493 F.3d 948, 970 (9th Cir. 2007) for the legal standard. As stated in *In re Sherman*, "[t]o establish standing under Article III, a party must demonstrate that (1) it has suffered an injury in fact that is (a) concrete and particularized and (b) actual or imminent, not conjectural or

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hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision."

In support of its contention that Daniel lacks standing to bring the instant motion, Trustee includes a footnote, which states: "Daniel is a party in interest in the Adversary Case but that does not make him a party in interest in this underlying chapter 7 case." The Court is not convinced that this is *a priori* true. The *Sherman* standard outlined above requires that the injury be "fairly traceable." Here, the injury which would be suffered by Daniel as a defendant in the adversary proceeding seems traceable to the maintenance of the main bankruptcy case, and dismissal of the main bankruptcy case would ultimately result in dismissal of the adversary proceeding. While neither party has provided any case law to guide the Court's analysis of standing in the instant situation, the "fairly traceable" standard would seem to impart standing to Daniel. For example, in *In re Alvarado*, 496 B.R. 200, 206 (N.D. Cal. 2013), the court ruled that an attorney had independent standing to challenge the dismissal of the bankruptcy case, when that dismissal resulted in an order requiring the disgorgement of attorney fees. In that case, the attorney was not a party in interest in the bankruptcy proceeding, yet the dismissal of the case caused an injury to the attorney, satisfying the standards for standing. *See also In re Azam*, 2014 WL 12689267 at *4 (C.D. Cal. 2014) (Appellee had standing to move for dismissal because "Appellee had a pecuniary interest and practical stake in the bankruptcy case, at least because it is the current plaintiff in an unlawful detainer action against Appellant *and is a defendant in an adversary proceeding* filed by Appellant.") (emphasis added). Put another way, "standing in bankruptcy is determined under the 'person aggrieved' test, under which only one who is directly and adversely affected pecuniarily has standing to appeal a bankruptcy court's order." *In re Aheong*, 276 B.R. 233, 238 (B.A.P. 9th Cir. 2002) (quotation omitted). In any event, the Court notes Daniel has filed a proof of claim.

Nevertheless, it is unclear whether it is necessary for the Court to determine that Daniel has standing to bring the instant motion because it is clear that the same issue could be raised by the Court, *sua sponte*, pursuant to 11 U.S.C. § 105(a). *See, e.g., In re Hurt*, 234 B.R. 1, 2 (Bankr. D.N.H. 1999) ("[T]he Court, *sua sponte*, issued an order to show cause why the case should not be dismissed for failure to provide evidence that Ms. O'Neil is the debtor's attorney in fact and that Ms. O'Neil has been given specific authority to file a bankruptcy petition on behalf of Ms. Hurt and to take action incident to the bankruptcy filing."); *see also, In re Brown*, 163 B.R. 596, 597

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(Bankr. N.D. Fla. 1993) ("The validity of a petition is a threshold question in determining a bankruptcy court's jurisdiction over a case.").

For the reasons stated above, the Court is inclined to find that Daniel has standing to bring the instant motion. Alternatively, Trustee may be afforded an opportunity to file a supplemental brief containing appropriate legal support for its contention that Daniel lacks standing to bring the instant motion. If the latter option is preferred, however, the Court will also enter an order to show cause why the case should not be dismissed as a legal nullity, to be heard simultaneously with a continued hearing.

III. RATIFICATION OF FILING

The primary argument raised by Trustee is that: "[t]he Motion should be denied because Toby had the authority to file the petition, Debtor has ratified the filing by assisting in the filing, and any other procedural deficiencies can be cured through the appointment of a next friend or guardian ad litem." [Dkt. No. 21, pg 4, lines 3-5]. These are three distinct arguments which will be addressed separately.

The first contention, that Toby had authority to file the petition, while possibly true in a technical sense, cannot render the instant filing valid because, as conceded by Trustee, "even if the Court finds the power of attorney gave Toby the authority to commence this case, he did not sign in his representative capacity." [Dkt. No. 21, pg. 4, lines 11-12].

The second contention, that Debtor subsequently ratified the filing, lacks affirmative evidence in the record. Nevertheless, ratification typically does not require an affirmative act. *See, e.g., Hager v. Gibson*, 108 F.3d 35 (4th Cir. 1997); *In re Ballard*, 1987 WL 191320 *1 (Bankr. N.D. Cal. 1987) ("debtor may be estopped from denying validity of petition once he has knowingly accepted the benefits"); *see also Rakestraw v. Rodriguez*, 8 Cal.3d 67, 73 (Cal. 1972) ("A purported agent's act may be adopted expressly or it may be adopted by implication based on conduct of the purported principal from which an intention to consent to or adopt the act may be fairly

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inferred."). The record submitted by Trustee is, however, simply inadequate to support a finding of ratification at the present time.

The ratification issues becomes even more problematic because of the implication that Debtor is sufficiently incompetent to justify the appointment of a next friend. FED. R. BANKR. P. Rule 1004.1 allows "a representative, including a general guardian, committee, conservator, or similar fiduciary," to file a voluntary petition on behalf of an incompetent person.

The rule further provides that:

[a]n infant or incompetent person who does not have a duly appointed representative may file a voluntary petition by next friend or guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person who is a debtor and is not otherwise represented or shall make any other order to protect the infant or incompetent debtor.

Rule 1004.1 is patterned after FED.R.CIV.P. Rule 17(c), which applies to adversary proceedings pursuant to FED. R. BANKR. P. Rule 7017. That rule provides that an incompetent person may sue "by a next friend or by a guardian ad litem" if the incompetent person does not have a duly appointed representative, and provides that "[t]he court must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action."

Cases interpreting Rule 17(c) look to the law of the state in which the subject is domiciled and follow the state's incompetency laws." *In re Burchell*, 2014 WL 1304635, at *1 (Bankr. N.D. Ohio 2014)(internal citations omitted). This Court looks to the California Probate Code's § 811 which outlines the possible bases for a determination that a person is of unsound mind or lacks capacity to make a decision or do a certain act, including for example, incapacity to contract or to execute wills or trusts.

The motion for appointment of a next friend, however, is not before the Court, and there is no evidence as to Debtor's incompetence. There is also no evidence before the Court that Debtor has affirmatively ratified the filing, or knowingly accepted the benefits of the bankruptcy.

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Therefore, in accordance with the foregoing, the Court is inclined to determine that the instant filing is a legal nullity, and GRANT the motion to dismiss the case. The Court will issue an OSC as to sanctions against Debtor's attorney in connection with the filing of the petition.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Connie Gutierrez

Represented By
Keith Q Nguyen

Movant(s):

Daniel Gutierrez

Represented By
Lane K Bogard

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

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6:18-16908 Visiting Nurse Association of the Inland Counties

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#4.00 CONT Motion To Compel Payment Of Administrative Rent Or Immediate Rejection Of Lease And Related Relief
(HOLDING DATE)

From: 11/27/18, 12/18/18, 2/26/19

Also #5

EH__

Docket 194

Tentative Ruling:

2/26/19

BACKGROUND

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor") filed a Chapter 11 voluntary petition. On November 2, 2018, The H.N. and Frances C. Berger Foundation ("Berger Foundation") filed its motion to compel payment of administrative rent or immediate rejection of lease and related relief. On November 13, 2018, Debtor filed its opposition.

The subject of the motion is a lease dated August 15, 2008, for certain nonresidential real property located in Palm Desert, California. According to Berger Foundation, "[p]ursuant to the terms of lease, should the Debtor continue to occupy the premises after August 14, 2018, the lease obligation increases to approximately \$91,216.50 per month," [Dkt. No. 194, pg. 2] a doubling of the contractual monthly rental obligation. Berger Foundation requests: (1) that Debtor be compelled to cure the default on the lease or surrender the premises; and (2) allowance of an administrative expense claim

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in the amount of \$3,040.55 per day.

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Debtor's opposition argued that: (1) the lease cannot be assumed or rejected because the lease expired the day before the petition date; and (2) because the lease expired prepetition, the legal basis for the requested administrative expense claim is invalid.

On November 27, 2018, the Court held a hearing on the matter, and continue the hearing for three weeks for supplemental briefing. On December 18, 2018, the Court posted a tentative ruling prior to the continued hearing, indicating that it was inclined to hold that the lease terminated pre-petition, and, therefore, the lease was not an executory contract. The Court continued the matter again, allowing the parties the opportunity to further brief the matter, and to enable the parties to supplement the record to afford the Court the opportunity to assess Berger Foundation's request for administrative rent.

On January 18, 2019, Berger Foundation filed a supplement. On February 1, 2019, Debtor filed a response. Because Berger Foundation has not presented any new argument relating to 11 U.S.C. § 365, the Court is not inclined to modify its tentative, which is outlined in the first portion of the discussion section. Instead, the Court will address the parties' arguments relating to 11 U.S.C. § 503.

DISCUSSION

I. 11 U.S.C. § 365

The critical legal question at issue is whether the operative lease expired prepetition. Berger Foundation relies on 11 U.S.C. § 365(d)(3) as the basis for both its requests, and that provision states:

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The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any *unexpired* lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. The court may extend, for cause, the time for performance of any such obligation that arises within 60 days after the date of the order for relief, but the time for performance shall not be extended beyond such 60-day period. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f) of the section. Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(emphasis added).

As a general rule, an expired lease is no longer executory, and, therefore, is no longer assumable, if the lease expired prepetition. *See, e.g., In re Acorn Invs.*, 8 B.R. 506, 509-10 (Bankr. S.D. Cal. 1981). Therefore, the Court must determine whether the lease at issue expired prepetition. *See Robinson v. Chicago Hous. Auth.*, 54 F.3d 316, 320 (7th Cir. 1995) ("the federal law allowing 'unexpired' leases to be assumed calls for a determination whether a lease has ended under state law."). Here, Debtor argues that the lease expired pre-petition, resulting in a holdover tenancy, in which no privity of contract exists, while Berger Foundation argues that the lease became a month to month tenancy and, therefore, was not expired. While the parties appear to be agree on the operative legal standard, the parties disagree regarding how that standard applies to the facts here

Both parties refer to CAL. CIV. CODE § 1945, which states:

If a lessee of real property remains in possession thereof after the expiration of the hiring, and the lessor accepts rent from him, the parties are presumed to have renewed the hiring on the same terms and for the same time, not

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exceeding one month when the rent is payable monthly, nor in any case one year.

As a preliminary matter, the Court notes that it appears the above legal provision should not actually be applicable to the instant situation. Specifically, CAL. CIV. CODE § 1940(a), (c) states the following:

- (a) Except as provided in subdivision (b), this chapter shall apply to all persons who hire dwelling units located within this state included tenants, boarders, lodgers, and others, however denominated.
- (c) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

Here, the lease at issue was a commercial lease which would remove the lease from the purview of § 1945 based upon the plain language of § 1940. Nevertheless, the Court notes that there is ample caselaw, some of which is cited by the parties, in which California courts have applied § 1945 to commercial property. Although it is not clear to this Court why that section is inapplicable to the instant situation, the Court will defer to the state law courts on this issue of state law.

Ultimately, the argument of Berger Foundation boils down to the following:

In this case, after the expiration of the Lease terms (August 14, 2018), Debtor continued to occupy the Premises. Berger continued to accept the Debtor as a tenant and took no action to terminate the Debtor's leasehold interest in the Premises. To the contrary, as this Court's record reflects, from the outset, Berger has been focusing on receiving rent payments and, in fact, received post-petition payments of not less than \$15,000 as of the date of this Reply. Clearly, pursuant to Civil Code § 1945 and applicable California authority, the

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Lease converted to a month-to-month tenancy after August 14, 2018.

[Dkt. No. 278, pg. 3]. Debtor's argument, on the other hand, appears to be that Berger Foundation's actions in this case simply do not reflect clear consent to Debtor's continued possession of the premises.

First, there appears to be a timing issue which has not been identified by the parties. The operative lease expired, by its own terms, on August 14, 2018. The instant bankruptcy was filed on August 15, 2018. Therefore, assuming, *arguendo*, that rent was paid and accepted in a matter which would trigger the statutory presumption in CAL. CIV. CODE § 1945, such event would have occurred *after* the petition date. *City v. Hart*, 175 Cal. App. 3d 92, 94 (Cal. Ct. App. 1985) ("The statute provides the landlord's consent to the holding over is implied if he accepts rent from the tenant after the expiration of the lease. This consent to the holding over must be established **before** the statutory presumption of the same terms becomes effective.") (emphasis added). Therefore, the lease at issue would have been, as of the petition date, expired and not assumable. Quite simply, on the record before the Court, it is implausible that Berger Foundation could have undertaken any action in the fraction of the day before the instant bankruptcy filing which would have indicated consent to the creation of a month-to-month tenancy.

Furthermore, outside of the bankruptcy law issues raised above, Berger Foundation's position does not seem to be compatible with state law. Quite simply, the presumptions outlined in CAL. CIV. CODE § 1945 are analogous to contractual principles in common law. By remaining in possession of the property, and tendering a rental payment, a holdover tenant is making an offer; by accepting such tender, the landlord manifests his assent to such offer. Berger Foundation seems to be positing that the payment of any rent whatsoever, even a single dollar, subsequently accepted by the landlord, results in the extension of the lease terms on the original contractual terms.

Berger Foundation's argument, however, is inconsistent with fundamental contractual principles, for, in the case of a minimal rental payment, it cannot be said that either party has made an offer, accepted by the other party, to renew the original lease terms. At best, the landlord's implied acquiescence may be construed as an offer, yet the tenant's tender of a minimal rental payment can only be interpreted as a counter-offer,

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since such a tender would be materially inconsistent with the terms of the offer. If the landlord accepts this reduced tender, the terms agreed upon must be construed as those set forth in the counter-offer, a principle codified in CAL. CIV. PRO. § 2076:

The person to whom a tender is made must, at the time, specify any objection he may have to the money, instrument, or property, or he must be deemed to have waived it; and if the objection be to the amount of money, the terms of the instrument, or the amount or kind of property, he must specify the amount, terms, or kind which he requires, or be precluded from objecting afterwards.

See also Taylor v. Taylor, 39 Cal. App. 2d 518, 521 (Cal. Ct. App. 1940) ("It is now settled by these cases that where the tenant tenders, and the landlord accepts, as full payment of the rent, a less monthly rental than that reserved in the lease, he cannot later recover the unpaid balance of the rent reserved.")

While the above principle, a principle of estoppel, is properly subject to the Court's consideration of equities, such consideration would simply not change the fact that a reduced monthly rental payment cannot be considered acquiescence to a renewal of the original contractual terms. In the absence of such mutual agreement to be bound to the original terms, there simply cannot be contractual privity.

Finally, the Court notes that the operation of CAL. CIV. CODE § 1945 is to create a rebuttable presumption that the lease has been extended. Assuming, *arguendo*, that the bankruptcy and contract law issues noted above were not present, it appears probable that such a presumption would be rebutted in the instant case. The Court is not aware of any action taken by Debtor that would support a conclusion that Debtor intended to renew the lease on the original terms, and Berger Foundation has made repeated statements which would be incompatible with the presumption in § 1945. For instance, in the instant motion Berger Foundation made the following statements, which are implicitly and explicitly more compatible with a holdover tenancy than a month-to-month tenancy:

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- "Since the filing of this case, the Debtor has continued, and continues, to occupy the Premises, yet has failed to pay the rental obligation due and owing." [Dkt. No 194, pg. 2 and 4]

- "Based on the fact that the Debtor remained *as a holdover tenant*, and pursuant to the terms of the Lease, the rental obligation increases to approximately \$91,216.50 per month." [Dkt. No. 194, pg. 4 and 10] (emphasis added).

- "Here, the Debtor has made no payments while continuing to occupy the Premises." [Dkt. No. 194, pg. 6].

For the reasons outlined above, the Court concludes that the lease in question was expired as of the petition date because nothing in the record indicates that Berger Foundation provided consent to continued possession of the premises in the less than one-day period between the expiration of the lease and the instant bankruptcy filing. To the extent that Berger Foundation argues that postpetition acts retroactively revived the original lease terms, such retroactive revival would seem to be incompatible with *City v. Hart*, 175 Cal. App. 3d 92, 94 (Cal. Ct. App. 1985). Furthermore, because Debtor did not remotely act in accordance with the original lease terms, it cannot be said that Debtor actions constituted a renewal of those terms; if any lease was entered into postpetition, it must have been on substantially different terms, which would require notice and a hearing. Additionally, even if the statutory presumption of CAL. CIV. CODE § 1945 were applicable in the instant situation, the Court concludes that such presumption would likely be rebutted based on the fact that Debtor did not act in accordance with the original terms, and based on Berger Foundation's explicit characterization of Debtor as a holdover tenant.

II. 11 U.S.C. § 503

11 U.S.C. § 503(b)(1)(A) states:

- (b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including –

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(1)(A) the actual, necessary costs and expenses of preserving the estate including –

"An administrative rent claim under this standard is value 'under an objective worth standard that measures the fair and reasonable value of the lease.'" *In re Pac.-Atl. Trading Co.*, 27 F.3d 401, 403 (9th Cir. 1994) (quoting *In re Dant & Russell, Inc.*, 853 F.2d 700, 707 (9th Cir. 1988)). "The rent reserved in the lease is presumptive evidence of fair and reasonable value, but the presumption may be rebutted by demonstrating that the reasonable worth of the lease differs from the contract rate." *In re Thompson*, 788 F.2d 560, 563 (9th Cir. 1986). "Where the debtor or trustee only uses a portion of the lease property, however, he must pay an administrative expense only for that portion of the property." *Id.* at 562. The Court continued the previous hearing for the parties to provide evidence and argument regarding the objective value of the portion of the leased property utilized by Debtor.

Debtor first, very briefly, argues that the parties have implicitly agreed to a rental rate of \$5,000 per month, and that that amount should be used in calculating Berger Foundation's administrative claim. Debtor appears to base this argument on the Court's tentative ruling for the hearing of December 18, 2018; specifically, Debtor refers to *Taylor v. Taylor*, 39 Cal. App. 2d 518, 521 (Cal. Ct. App. 1940). The Court rejects Debtor's approach. The relevant language in the Court's tentative ruling is used to illustrate that, in the context of a holdover tenancy, the original contractual terms do not necessarily control when the parties have acted in a manner which is materially inconsistent with those terms. Importantly, here, the \$5,000 payment discussed by Debtor is not necessarily a "rental" payment, but is more accurately characterized as an "adequate protection" payment. Adequate protection payments may be in amounts substantially different than the actual amount due – for instant, an adequate protection payment may be interest only, or may attempt to estimate the depreciation of the estate, in order to protect the secured creditor's interest. Furthermore, it would not be equitable to apply the estoppel principle codified in CAL. CIV. PRO. § 2076 in the context of bankruptcy, where the lender does have the ability to reject the payment and, without constraint, exercise its traditional state law rights.

Debtor's primary argument is that the contract rate of the lease is an "inappropriate measure" of the objective worth of the lease because Debtor did not use the entirety of the leased premises. Specifically, Debtor argues that it only utilized 4,000 square feet

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of the leased premises. Berger Foundation, on the other hand, makes two arguments in response: (1) that the entirety of the premises were necessary for Debtor to maintain its CMS license; and (2) that Debtor actually utilized the majority of the premises. In support of its argument, Debtor has provided declarations attesting that Debtor only used 4,000 square feet, and that, after moving into a smaller space, Debtor did not lose any funding, or, presumably, its license. Berger Foundation has provided a declaration which includes the vague statement that Debtor "continued to utilize the majority of the Premises."

The record provided to the Court is, unfortunately, unclear and incapable of providing the necessary evidentiary framework for a precise mathematical calculation. First, there is conflicting evidence regarding whether Debtor used only 4,000 square feet. Second, and more importantly, the evidence seems to suggest, but is still unclear, that the Debtor required all the space to maintain its license (or at least thought it had to). Debtor's response states the following: "Although it is true the Debtor was concerned it might lose funding if it lost its physical address in Palm Desert by hastily vacating the Premises, a belief that the Debtor needed a physical address for funding does not trump the Ninth Circuit requirement that the Debtor actually use the entirety of the Premises. In fact, Berger does not cite to any authority for this proposition." [Dkt. No. 323, pg. 10, lines 6-10].

On the record before it, the Court concludes Debtor has failed to demonstrate it did not use the entirety of the premises. More specifically, the Court concludes that there are a variety of ways that a space can be "used," and that that term is not limited to physical occupancy by the tenant. While, again, the record before the Court is less than clear, it appears that Debtor represented that it had control over, and occupancy of, the entirety of the premises for purposes of its licensing and funding. As a result, it appears Debtor continued to "use" the leased premises for some purposes, even if such use did not necessarily amount to physical use of the entirety of the premises for normal business operations. Because Debtor has not established that the use of the full premises was not reasonably necessary to preserve the estate, the Court rejects Debtor's attempt to reduce the space used to 4,000 square foot. As a result, the Court concludes that Debtor has not rebutted the presumption that the contract rate represents the reasonable value of the leased premises used.

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TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of allowing Berger Foundation an administrative claim in the amount of \$172,543.53, less amounts received, and DENY the remainder of the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

Movant(s):

The H. N. and Frances C. Berger

Represented By
David B Golubchik

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6:18-16908 Visiting Nurse Association of the Inland Counties

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#5.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 10/30/18, 11/13/18, 12/18/18, 2/26/19

Also #4

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

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6:17-18617 Christy Carmen Hammond

Chapter 7

#6.00 Application to Employ Century 21-Lois Lauer Realty as Real Estate Broker

EH__

Docket 30

Tentative Ruling:

3/27/2019

BACKGROUND

On October 16, 2017, Christy Hammond ("Debtor") filed a Chapter 7 voluntary petition. On January 29, 2018, Debtor received her discharge. On April 23, 2018, Trustee filed a notice of assets.

On February 4, 2019, Trustee filed an application to employ real estate broker to market certain real property located at 5918 Ridgeway Dr., Chino Hills, CA 91709 (the "Property"). On February 18, 2019, Debtor filed her opposition to the application. Debtor's opposition raises four arguments: (1) that there is no equity in the Property; (2) broker is charging excessive commission fee; (3) broker is not a qualified broker but is rather an agent; and (4) only the Debtor's half joint interest is property of the estate. On March 20, 2019, Trustee filed its reply.

DISCUSSION

As a preliminary matter, the Court notes that Debtor's opposition contains no admissible evidence. The Court will reject the arguments raised in the opposition for

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the following reasons:

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- 1) While Debtor argues that Trustee's sales price is unreasonably high, Debtor has not provided any persuasive evidence to support that assertion. The only evidence referenced by Debtor, Debtor's statement of the value of the Property in the schedules, is inadequate to defeat an application to employ a real estate broker.
- 2) Debtor has not provided any admissible evidence in support of her contention that the proposed broker's fees are unreasonably high. Regardless, the Court retains jurisdiction to review the proposed compensation of the broker at the appropriate time.
- 3) Debtor has not provided any admissible evidence in support of her contention that the proposed broker is not a qualified broker.
- 4) Finally, Debtor's argument that only a fractional interest in the Property is property of the estate, if true, is inadequate to defeat an application to employ real estate broker. Furthermore, there is no evidence in the record to suggest that the Property is anything but community property, which would appear to be property of the estate pursuant to 11 U.S.C. § 541(a)(2).

For the reasons stated above, the Court is inclined to APPROVE the application.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Christy Carmen Hammond

Represented By
Eric C Morris

Movant(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

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Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

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6:19-11004 Sabra Ann Pazderski

Chapter 7

#7.00 Motion For Order Compelling Attorney to File Disclosure of Compensation Pursuant to 11 U.S.C. 329 and Federal Rule of Bankruptcy Procedure 2016

EH__

Docket 14

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/20/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sabra Ann Pazderski

Represented By
Gilbert A Diaz

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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6:16-16191 Sheri Tanaka Christopher

Chapter 7

#8.00 Notice of Trustee's Final Report and Applications for Compensation

EH ____

Docket 59

Tentative Ruling:

3/27/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 4,050.00
Trustee Expenses: \$ 65.99

Attorney Fees: \$ 20,374
Attorney Costs: \$ 469.15

Accountant Fees: \$1,428.00
Accountant Costs: \$248.60

Court Costs: \$350.00

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Sheri Tanaka Christopher

Represented By

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CONT... Sheri Tanaka Christopher

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Brian J Soo-Hoo

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monserrat Morales

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Hearing Room 303

11:00 AM

6:15-21570 Janice Elaine Cox

Chapter 7

#9.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 97

Tentative Ruling:

3/27/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 12,996.59
Trustee Expenses: \$ 868.53

Attorney Fees: \$ 22,843.50

Accountant Fees: \$1,848
Accountant Costs: \$277.50

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Janice Elaine Cox

Represented By
Rajiv Jain

Trustee(s):

Arturo Cisneros (TR)

Represented By

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Janice Elaine Cox

William Malcolm
Christina J O

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6:10-51855 Brian Gudets and Delia F Gudets

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#10.00 CONT Notice of Trustee's Final Report and Applications for Compensation

From: 1/16/19

EH__

Docket 116

Tentative Ruling:

3/27/2019

1. Background

On December 30, 2010, Brian & Delia Gudets ("Debtors") filed a Chapter 7 voluntary petition. On April 20, 2011, Debtors received a discharge. On October 6, 2011, the case was closed.

On November 27, 2017, UST filed a motion to reopen the case to potentially administer a settlement award arising from prepetition litigation. On January 4, 2018, Debtors amended Schedules B and C to schedule a personal injury claim in the amount of \$50,000, and claim an exemption in the property of \$50,000. The Court notes that this amendment may have been in violation of FED. R. BANKR. P. Rules 1009(a) and 9006(b)(1), however, the Trustee declined to object to the amended exemptions. On February 13, 2018, the IRS filed a proof of claim ("Claim 4") in the amount of \$92,398.37, identifying \$34,307.73 as secured and \$57,990.64 as entitled to priority.

On April 9, 2018, Trustee filed a motion to approve compromise, which was approved by this Court on May 3, 2018. After receiving, \$50,000 from the approved settlement, Trustee's general and special counsel filed applications for compensation.

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CONT... Brian Gudets and Delia F Gudets

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Trustee filed the instant final report on December 11, 2018. The final report proposes to pay \$41,488.74 to Trustee and his counsels for administrative expenses, and to pay the remaining \$6,011.26 on account of Claim 4.

The Court held a hearing on the matter on January 16, 2019, and continued the matter for Trustee to file a supplemental brief. On March 5, 2019, Trustee filed a supplemental brief, and then amended the brief on March 20, 2019.

2. The Court's Previous Tentative Ruling

The Court's previous tentative included the following:

In essence, Trustee's proposed distribution pays the Chapter 7 administrative expenses first, the priority tax claim of the IRS second, and the Debtor's exemption third (although there are no funds available at this point). After reviewing the compromise motion, it appears that the Trustee's rationale is as follows. First, pursuant to 11 U.S.C. § 522(c)(2)(B), exempt property of the Debtor is liable for Claim 4. Second, pursuant to § 724(b), payments made on behalf of IRS are only to be made after payment of the administrative expenses of the estate. Trustee appears to miss, however, § 522(k), which provides that exempt property cannot be used to pay administrative expenses, except under limited circumstances which are not applicable here. This provision would seem to preclude Trustee's attempt to jump ahead of Debtor's exemption in the order of distribution.

At first glance, the three cited provisions above would seem paradoxical. According to Trustee, 11 U.S.C. § 522(c)(2)(B) places Claim 4 above Debtor's exemption. According to Trustee, 11 U.S.C. § 724(b) appears clear that payment on behalf of Claim 4 is subordinated to payment of administrative expenses. And 11 U.S.C. § 522(k) appears clear that payment of administrative expenses is subordinated to payment of Debtor's exemption.

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The Court's resolution of this paradox is the following. 11 U.S.C. § 724(b) is only applicable to "[p]roperty in which the estate has an interest." Pursuant to 11 U.S.C. § 522(b)(1), the settlement proceeds at issue are subject to an exemption and therefore have been "exempt[ed] from property of the estate." *See also Schwab v. Reilly*, 560 U.S. 770, 775 (2010) ("If an interested party fails to object within the time allowed, a claimed exemption will exclude the subject property from the estate."). Therefore, the estate does not have an interest in the settlement proceeds and § 724(b) is inapplicable. Because § 724(b) is inapplicable, the remaining provisions place Claim 4 ahead of the exemption and the exemption ahead of the administrative expenses. As a result, Trustee's is precluded from jumping Claim 4 and Debtor's exemption in the order of distribution. Therefore, the proper distribution appears to be to pay the secured portion of Claim 4, and to return the balance to the Debtor on account of Debtor's exemption in the proceeds.

3. Applicable Statutes

11 U.S.C. § 724(b)(1)-(3) state the following:

(b) Property in which the estate has an interest and that is subject to a lien that is not avoidable under this title (other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate) and that secures an allowed claim for a tax, or proceeds of such property, shall be distributed –

- (1) first, to any holder of an allowed claim secured by a lien on such property that is not avoidable under this title and that is senior to such tax lien
- (2) second, to any holder of a claim of a kind specified in section 507(a)(1)(C) or 507(a)(2) (except that such expenses under each such section, other than claims for wages, salaries, or commissions that arise after the date of the filing of the petition, shall be limited to expenses incurred under this chapter and shall not include expenses, incurred under chapter 11 of this title), 507(a)(1)(A), 507(a)(1)(B), 507(a)(3), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of this title, to the extent of the amount of such allowed tax claim that is secured by such tax lien;
- (3) third, to the holder of such tax lien, to any extent that such holder's allowed tax claim that is secured by such tax lien exceeds any amount

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distributed under paragraph (2) of this subsection.

11 U.S.C. § 522(c)(2)(B) states the following:

(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except –

(2) a debt secured by a lien that is –

(B) a tax lien, notice of which is properly filed

11 U.S.C. § 522(k) states the following: "Property that the debtor exempts under this section is not liable for payment of any administrative expense except . . ." (exceptions inapplicable to instant situation).

4. Analysis

In support of its proposed distribution scheme, Trustee extensively cites three cases: (1) *In re Fearing*, 2008 WL 4690967 (C.D. Cal. 2008); (2) *In re Laredo*, 334 B.R. 401 (Bankr. N.D. Ill. 2005); and (3) *In re Bolden*, 327 B.R. 657 (Bankr. C.D. Cal. 2005).

The Court does not find *In re Fearing* to be helpful. The district court's affirmance was summary, and the bankruptcy court opinion was not published. Furthermore, to the extent *In re Fearing* engaged in any analysis, it appears to have simply adopted the rationale of the other two cases referenced above.

Additionally, the Court does not find *In re Laredo* to be particularly helpful. First, the Court notes that *In re Laredo* does not appear to make an effort to resolve the apparent conflict between the three statutes cited above; 11 U.S.C. § 522(k) is not cited anywhere in the decision. Second, the Court notes that the extensive excerpt quoted in Trustee's supplemental brief has been rejected by the majority of the courts that have quoted that section.

The Court does, however, find *In re Bolden* to contain helpful analysis. Specifically, the following statement from the bankruptcy court in *In re Bolden* has the potential to resolve the conflict between the three, ostensibly incompatible statutory provisions:

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"Generally, a debtor is not entitled to claim a homestead exemption on property that is subject to an IRS levy." *In re Bolden*, 327 B.R. 657, 663 (Bankr. C.D. Cal. 2005). In other words, if Debtors' exemption is not valid to the extent the underlying property is encumbered by an IRS lien, then the prohibition of § 522(k) does not apply to the extent of the IRS lien. *See also* GINSBERG & MARTIN ON BANKRUPTCY § 6.02[D][2] (5th ed. 2019) ("Section 522(c)(2)(B) gives special protection to taxes by providing that the debtor cannot claim an exemption in property subject to a properly filed tax lien."). Here, the Court concludes that Debtors are unable to claim an exemption in the settlement proceeds to the extent of the properly noticed tax lien. *See, e.g., Owen v. Owen*, 500 U.S. 305, 308-09 (1991); *see also In re Hannon*, 514 B.R. 69 (Bankr. D. Mass. 2014).

To the extent that there are proceeds available above and beyond the amount of the tax lien, however, Debtors' exemption is valid and those funds cannot be used to pay administrative costs due to the unambiguous prohibition included within § 522(k). *See In re Selander*, 592 B.R. 729, 735 (Bankr. W.D. Wash. 2018) ("In the absence of the IRS lien, the Trustee's request would amount to the naked use of exempt funds to pay costs of the sale and his fees – a result prohibited by § 522(k)."). Of particular note is the fact that all of the cases relied upon by Trustee pre-date *Law v. Siegel*, 571 U.S. 415, 422 (2014). Prior to *Law v. Siegel*, courts not infrequently used various equitable powers to essentially surcharge a debtor's exemption to pay administrative costs. *See, e.g., 4 COLLIER'S ON BANKRUPTCY* ¶ 522.12[7] (16th ed. 2014) ("Despite the protection provided for exemptions in section 522(k), a number of courts had held that a debtor's exempt property could be surcharged for administrative expenses in circumstances beyond those provided for in the statute."). Now, however, the Court is left with no discretion over the application of § 522(k) to the extent Debtors have an allowed exemption in equity in the proceeds. Trustee having failed to object to Debtors' claimed exemption, Debtors' exemption is valid to the extent that there is equity in the proceeds.

The Court notes that on March 19, 2019, the IRS amended Claim 4 to reduce its claim to \$4,255.91. Therefore, Debtors' exemption applies to the remaining \$45,744.09, and Trustee can use the framework of 11 U.S.C. §724(b) to distribute the remaining \$4,255.91 for administrative costs.

5. **Attorney's Lien**

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Trustee next argues that the state court counsel has an equitable attorney lien on the settlement proceeds. The Court rejects this argument for the following reason. Any attorney lien created in this case would have been created postpetition because the underlying state court litigation was not commenced until twenty-one months after the petition date. 11 U.S.C. § 541 (a)(1) provides that property of the estate includes all "legal or equitable interests of the debtor in property *as of the commencement of the case.*" (emphasis added). Because the alleged attorney lien did not exist as of the commencement of the case, it would not have impaired Debtors' interest in the litigation claim (or its proceeds pursuant to § 541(a)(6)), and therefore, subject to other liens, Debtors' exemption is valid against the entirety of the proceeds. Because Debtors' exemption is valid in bankruptcy including as to any interest that state court counsel now has a lien against, those proceeds cannot be used to pay the administrative expenses.

The Court need not reach the issue of whether state court counsel has a valid, postpetition lien against the proceeds which may be enforceable pursuant to state law. For the reasons stated in the above paragraph, satisfaction of the postpetition lien, if valid, cannot occur through distribution in bankruptcy court.

The Court is inclined to APPROVE the following distribution: \$45,744.09 to Debtors on account of their valid exemption, and the remaining \$4,255.91 for administrative costs. Parties to file a supplement or stipulate as to the distribution of funds available for administrative costs.

Party Information

Debtor(s):

Brian Gudets

Represented By
Rex Tran
Ronald Karz

Joint Debtor(s):

Delia F Gudets

Represented By
Rex Tran
Ronald Karz

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Trustee(s):

Sandra L Bendon (TR)

Pro Se

Karl T Anderson (TR)

Represented By
Robert A Hessling

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6:13-27611 Douglas Jay Roger

Chapter 7

**#11.00 CONT Objection to Claim #17 by Revere Financial Corporation
(Holding date)**

From: 10/1/14, 11/5/14, 12/3/14, 12/15/14, 1/28/15, 4/15/15, 7/22/15, 9/23/15,
10/21/15, 11/18/15, 12/16/15, 1/13/16, 3/2/16, 5/4/16, 6/1/16, 9/28/16, 11/16/16,
2/1/17, 2/16/17, 5/3/17, 6/14/17, 6/28/17, 9/20/17, 3/21/18, 6/27/18, 12/19/18

EH____

Docket 333

***** VACATED *** REASON: CONTINUED TO 5/8/19 AT 11:00 A.M.**

Tentative Ruling:

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

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6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

#12.00 CONT Status Conference re: Second Joint Motion and Moving Memorandum by Chapter 7 Trustee and Revere Financial Corporation for Order Approving Settlement between Chapter 7 Trustee and Revere Financial Corporation

From: 8/22/18, 1/16/19

EH __

Docket 521

***** VACATED *** REASON: CONTINUED TO 6/12/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Movant(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

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Wednesday, March 27, 2019

Hearing Room 303

11:00 AM

6:16-19947 Melissa Lynn Dixson

Chapter 7

#13.00 CONT Show Cause Hearing RE: [13] Motion For Contempt Violation Discharge Order

From: 1/9/19, 2/27/19

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melissa Lynn Dixson

Represented By
Bryant C MacDonald

Movant(s):

Melissa Lynn Dixson

Represented By
Bryant C MacDonald

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, March 27, 2019

Hearing Room 303

11:00 AM

6:15-21418 James Lloyd Walker

Chapter 7

#14.00 Amended First Interim Application for Compensation of Best Best & Krieger LLP for Allowance of Fees and Reimbursement of Costs for Caroline Djang, Trustee's Attorney, Period: 3/21/2016 to 2/5/2019, Fee: \$41,094.50, Expenses: \$2,029.19

Also #15

EH__

Docket 152

Tentative Ruling:

3/27/2019

On November 23, 2015, James Walker ("Debtor") filed a chapter 7 voluntary petition. On May 25, 2016, the Court ordered Debtor to turn over certain books and records to Trustee. That same day, the Court authorized the employment of Best Best & Krieger ("Counsel") as general counsel for Trustee.

On July 28, 2016, UST filed a complaint against Debtor objecting to discharge. The adversary was quickly resolved, resulting in the entry of a judgment denying discharge on September 7, 2016.

On March 6, 2017, the Court entered an order authorizing the employment of Century 21- Lois Lauer Realty as real estate broker for Trustee, to facilitate the marketing of certain real property located in Hesperia, California (the "Property"). Between June and November 2017, all of the claims filed in Debtor's case were either disallowed via Court order, withdrawn, or amended to zero, leaving only administrative creditors.

On March 9, 2018, Trustee filed a motion for turnover of the Property. The motion was continued three times by stipulation of the parties. On October 2, 2018, the Court granted the motion for turnover. On December 21, 2018, Trustee filed a motion for an OSC why Debtor should not be held in contempt for failure to

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CONT...

James Lloyd Walker

Chapter 7

comply with the turnover order. This motion was denied for procedural reasons on January 3, 2019. On January 10, 2019, the motion was refiled, and the Court issued an order to show cause on January 24, 2019. A further interim order on the order to show cause was entered on February 11, 2019.

On February 15, 2019, Counsel filed an application for compensation, requesting an aggregate of \$43,123.69 in fees and costs. The application was amended on February 28, 2019 (amended application referred to as the "Application"). The Court notes that it did receive any timely opposition to the amended application.

The Court notes that the Application fails to comply with the Local Rules in two immaterial respects. First, the Court notes that the Application does not contain a disclosure of the amount of money on hand in the estate or the estimated accrued expenses of other professionals pursuant to Local Rule 2016-(1)(a)(1)(A)(iii), although the Court presumes that the amount is zero for both. Second, the Court notes that because there is a second professional employed in this case, the real estate broker, this hearing should have technically been set on 45 days' notice pursuant to Local Rule 2016-(1)(a)(2). Given that the real estate broker is not the sort of professional who would file an interim fee application, however, the Court will waive this requirement.

The Court notes that Counsel has voluntarily reduced its fees by \$9,610 in the instant application, and that the remaining fees arise from 125.9 hours of work at a blended hourly rate of \$326.40/hour.

There are extensive issues with the Application. These issues are summarized as follows:

- (1) *Billing practices related to the Order to Show Cause.* The original order to show cause filed with the Court was denied for technical and procedural reasons as briefly described in the relevant Court order [Dkt. No. 129]. While the amended motion, filed on January 10, 2019, was not substantially identical to the original motion, it is materially similar. Page 37 of docket number 152 indicates that Counsel spent 11.4 hours on the original motion, and then spent 6.7 hours on the new, materially similar motion, excluding related time entries that have been placed in a different billing category. Given that the denial of

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CONT...

James Lloyd Walker

Chapter 7

the first motion was based on its technical and procedural inadequacy, the Court is inclined to disallow all time entries that were related to the preparation of the first order to show cause. This includes \$1,050 billed between December 19, 2018, and January 8, 2019, and identified as administrative fees, and \$2,847 billed between November 9, 2018, and December 20, 2018, and identified in the asset analysis and recovery category. The Court concludes that these fees did not, and, given the clear technical and procedural deficiencies, could not, have produced any benefit for the estate.

- (2) *Billing related to the denial of discharge.* The Court notes that in August 2016 of the litigation section of Counsel's application, Counsel has billed \$1,565 for work related to a complaint to deny (actually revoke) discharge. The Court notes that these billing entries occurred: (1) after the deadline for Trustee to file a complaint objecting to Debtor's discharge; and (2) after UST filed its own complaint objecting to Debtor's discharge. The Court finds that Counsel's work relating to a potential adversary proceeding to revoke discharge, while UST is prosecuting an adversary proceeding to deny discharge, was not reasonable or necessary, especially given the context of this case and the high probability of success for UST. Therefore, the Court is inclined to deny these entries in their entirety.
- (3) *Miscellaneous.* The Court notes that there is a single entry under the category of negotiations with Trustee, which includes 5.2 hours of billed time and is lumped. First, it is not exactly clear what this billing entry refers to, but, nevertheless, the Court is unable to ascertain the reasonableness of this entry given the lumping. Therefore, the Court is inclined to disallow this entry in the amount of \$1,274.

The Court also notes its displeasure with Counsel's practice of separating closely related work entries into multiple categories, obscuring the record, and unnecessarily complicating the Court's review and analysis of the time sheets.

Based on the reasons stated above, and noting the lack of any written opposition to the Application, the Court is inclined to ALLOW reduced fees in the amount of \$34,358.50 and costs in the amount of \$2,029.19.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
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CONT... James Lloyd Walker

Chapter 7

Debtor(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth

Movant(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

Trustee(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

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6:15-21418 James Lloyd Walker

Chapter 7

#15.00 CONT Order To Show Cause Why The Debtor Should Not Be Held In Contempt
Of The Court's Turnover Order

From: 2/7/19, 2/27/19

Also #14

EH__

Docket 138

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth

Trustee(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

**United States Bankruptcy Court
Central District of California
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Wednesday, March 27, 2019

Hearing Room 303

2:00 PM

6:18-13057 Desert Ice Castle, LLC

Chapter 7

Adv#: 6:19-01025 Steven M. Speier, as chapter 7 trustee v. Liu

#16.00 Status Conference RE: [1] Adversary case 6:19-ap-01025. Complaint by Steven M. Speier, as chapter 7 trustee against Anthony Liu. (Charge To Estate - \$350.00). with Summons and Adversary Cover Sheet Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(72 (Injunctive relief - other)) (Goe, Robert)

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/26/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Desert Ice Castle, LLC

Represented By
Paul M Stoddard

Defendant(s):

Anthony Liu

Pro Se

Plaintiff(s):

Steven M. Speier, as chapter 7

Represented By
Ryan S Riddles
Robert P Goe

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat Chapter 7
Adv#: 6:15-01307 Revere Financial Corporation v. OIC MEDICAL CORPORATION, a

#17.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01307. Complaint by A. Cisneros against OIC MEDICAL CORPORATION, a California corporation, LIBERTY ORTHOPEDIC CORPORATION, a California corporation, UNIVERSAL ORTHOPAEDIC GROUP, a California corporation. (Charge To Estate \$350). for Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))

From: 12/30/15, 2/24/16, 4/13/16, 6/22/16, 8/24/16, 11/2/16, 2/1/17, 3/8/17, 7/12/17, 9/13/17, 11/15/17, 2/14/18, 5/16/18, 7/25/18, 8/22/18, 10/31/18, 11/14/18, 12/12/18, 12/19/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/12/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

OIC MEDICAL CORPORATION, a

Represented By
Misty A Perry Isaacson

LIBERTY ORTHOPEDIC

Represented By
Misty Perry Isaacson

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CONT...

Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Misty A Perry Isaacson

UNIVERSAL ORTHOPAEDIC

Represented By

Misty Perry Isaacson

Misty A Perry Isaacson

Plaintiff(s):

Revere Financial Corporation

Represented By

Franklin R Fraley Jr

Trustee(s):

Arturo Cisneros (TR)

Represented By

Chad V Haes

D Edward Hays

Franklin R Fraley Jr

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:17-01085 PRINGLE v. Winn et al

#18.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01085. Complaint by JOHN P PRINGLE against Ralph Winn. (Charge To Estate - \$350.00). and other Defendants including DOES 1-25 Nature of Suit: 12 - Recovery of money/property - 547 preference, 13-Recovery of money/property - 548 fraudulent transfer, 21-Validity, priority or extent of lien or other interest in property,14 - Recovery of money/property - other, 91- Declaratory judgment)

From: 7/12/17, 8/23/17, 10/25/17, 5/16/18, 6/27/18, 9/26/18, 1/23/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/26/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Ralph Winn

Represented By
Douglas A Plazak

Sterling Security Service, Inc.

Represented By
Seth W Wiener

Natalia V Knoch

Represented By
Seth W Wiener

Steven B Knoch

Represented By
Seth W Wiener

Stacy Winn

Represented By

**United States Bankruptcy Court
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CONT... Home Security Stores, Inc.

Chapter 7

Douglas A Plazak

Plaintiff(s):

JOHN P PRINGLE

Represented By
Charity J Manee
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

**United States Bankruptcy Court
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Wednesday, March 27, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01061 Farah v. Bastorous et al

#19.00 Status Conference RE: [45] Amended Complaint THIRD AMENDED COMPLAINT FOR NONDISCHARGEABILITY BASED ON 11 USC § 523(a)(2) (A) AND FOR FRAUD, DECEIT AND/OR FALSE PROMISE by Wayne W Suojanen on behalf of Mina Farah against Mark Bastorous. (RE: related document(s)1 Adversary case 6:18-ap-01061. Complaint by Mina Farah, Mark Bastorous against Mark Bastorous, Bernadette Shenouda. false pretenses, false representation, actual fraud),(65 (Dischargeability - other)),(14 (Recovery of money/property - other)),(13 (Recovery of money/property - 548 fraudulent transfer)),(01 (Determination of removed claim or cause)) filed by Plaintiff Mina Farah. (Suojanen, Wayne)

EH__

Docket 45

***** VACATED *** REASON: CONTINUED TO 6/12/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

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2:00 PM

CONT... Mark Bastorous

Chapter 7

Plaintiff(s):

Mina Farah

Pro Se

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

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Wednesday, March 27, 2019

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2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01062 Khalil v. Bastorous et al

#20.00 Status Conference RE: [43] Amended Complaint THIRD AMENDED COMPLAINT FOR NONDISCHARGEABILITY BASED ON 11 USC § 523(a)(2) (A) AND FOR FRAUD, DECEIT AND/OR FALSE PROMISE by Wayne W Suojanen on behalf of Anis Khalil against Mark Bastorous. (RE: related document(s)1 Adversary case 6:18-ap-01062. Complaint by Anis Khalil against Mark Bastorous, Bernadette Shenouda. false pretenses, false representation, actual fraud)),(65 (Dischargeability - other)),(14 (Recovery of money/property - other)),(13 (Recovery of money/property - 548 fraudulent transfer)) filed by Plaintiff Anis Khalil). (Suojanen, Wayne)

EH__

Docket 43

***** VACATED *** REASON: CONTINUED TO 6/12/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

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2:00 PM

CONT... Mark Bastorous

Chapter 7

Plaintiff(s):

Anis Khalil

Pro Se

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

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Wednesday, March 27, 2019

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2:00 PM

6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#21.00 Order to show cause why complaint and countercomplaint should not be dismissed for lack of prosecution

Also #22 & #23

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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Hearing Room 303

2:00 PM

6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#22.00 CONT Status Conference on Complaint filed on 3/1/18 to Determine Dischargeability of Debt Pursuant to 11 USC 523(a)(6)

From: 5/3/18, 8/2/18, 8/29/18, 12/5/18, 1/9/19, 1/16/19

Also #21 & #23

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

**United States Bankruptcy Court
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CONT... Robert Lee Thompson, Jr.

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#23.00 CONT Status Conference RE: Counterclaim [19] Answer to Complaint and Affirmative Defenses to Complaint to Determine Dischargeability Pursuant to 11 U.S.C. §523(a)(6) and COUNTERCLAIM of Shatara Adrienne Thompson for Defamation, Counterclaim by Robert Lee Thompson Jr, Shatara Adrienne Thompson against Beatriz M Gutierrez

From: 8/2/18, 8/29/18, 12/5/18, 1/9/19, 1/16/19

Also #21 & #22

EH__

Docket 19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

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CONT... Robert Lee Thompson, Jr.

Chapter 7

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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2:00 PM

6:17-17749 Joshua Cord Richardson

Chapter 7

Adv#: 6:18-01146 Sonnenfeld v. Richardson

#24.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01146. Complaint by Cleo Sonnenfeld against Joshua Cord Richardson. (A)(4), and (A)(6); and to Deny Discharge Pursuant to 11 U.S.C. Sections 727(A)(3), and (A)(5) (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (62 (Dischargeability - 523(a)(2), 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)),(66 (Dischargeability - 523(a)(1),(14),(14A) priority tax claims)) (Masud, Laila)

From: 8/29/18, 1/30/19, 2/27/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/1/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Defendant(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Plaintiff(s):

Cleo Sonnenfeld

Represented By
D Edward Hays
Laila Masud

Trustee(s):

Todd A. Frealy (TR)

Represented By

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CONT...

Joshua Cord Richardson

Anthony A Friedman

Chapter 7

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Hearing Room 303

2:00 PM

6:17-13012 Issa M Musharbash

Chapter 7

Adv#: 6:17-01138 Musharbash et al v. Musharbash et al

#25.00 Pre-Trial RE: [1] Adversary case 6:17-ap-01138. Complaint to Determine Non-Dischargeability of Debt by Phillip Musharbash , Violette Musharbash against Issa M Musharbbash , Amal Musharbbash

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Issa M Musharbash

Represented By
Brian J Soo-Hoo

Defendant(s):

Issa M Musharbash

Pro Se

Amal Musharbash

Pro Se

Joint Debtor(s):

Amal Issa Musharbash

Represented By
Brian J Soo-Hoo

Plaintiff(s):

Phillip Musharbash

Pro Se

Violette Musharbash

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
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6:13-30625 John Martin Mata

Chapter 7

Adv#: 6:18-01089 Mata et al v. National Collegiate Student Loan Trust 2006-1 et a

#26.00 CONT Motion For Summary Judgment

From: 2/27/19

Also #27

EH__

Docket 33

Tentative Ruling:

MARCH 27TH, 2019

PROCEDURAL BACKGROUND

On December 31, 2013, John & Livier Mata ("Debtors") filed a Chapter 7 voluntary petition. On April 14, 2014, Debtors received a discharge, and the following day their case was closed.

On April 18, 2018, Debtors filed a complaint against National Collegiate Student Loan Trust 2006-1, National Collegiate Student Loan Trust 2006-4, and National Collegiate Student Loan Trust 2007-1 (collectively, "Defendants") seeking for determination of dischargeability. Specifically, Debtors seek a declaratory judgment that their loans were discharged. On May 18, 2018, Defendants filed their answer.

On January 9, 2019, Defendants filed a motion for summary judgment. On February 5, 2019, Debtors filed their opposition. Defendants filed their reply to Debtor's opposition on February 13, 2019. This matter has been continued once by the Court.

FACTUAL BACKGROUND

The background of the extant case is simple, but the underlying context is far more complex.

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CONT... **John Martin Mata**

Chapter 7

First Marblehead Corporation is a formerly NYSE listed private company that, in the mid-2000's, was a dominant player in the private student loan business. In early 2001, it purchased the operating assets of The Education Resources Institute (hereinafter "TERI"), a nonprofit group primarily involved in the guaranteeing of private student loans. Beginning in 2001, First Marblehead established a financial plan under which banks would offer private student loans, which would then be collected and repackaged into National Collegiate Student Loan Trusts (hereinafter "NCSLT"), which would all be, at least ostensibly, guaranteed by TERI, intended to grant the loans protection from discharge, and were finally offered on the open market for investment. The banks involved in the funding of these loans include JP Morgan, HSBC, Citizens, PNC, and, in this particular case, Charter One, among many others. There were 15 NCSLTs in total, owning more than 800,000 private loans worth billions of dollars.¹

Beginning in 2005, First Marblehead became increasingly aggressive in expanding loan volume to riskier debtors and increasing the value of those loans. As the economy began its downturn in 2007, default rates began rapidly increasing, resulting in the eventual bankruptcy of TERI in 2008.

The question of the nature of the dischargeability of the NCSLT loans has since been taken on by bankruptcy courts across the country. This is one of those cases.

John Mata took out three \$30,000 loans as part of his graduate studies in counseling at Loma Linda University. These occurred in January of 2006, September of 2006, and August of 2007. Each loan was cosigned by Livier Mata, and carried a respective interest rate of 9, 12, and 14%. The loan agreements each stated that the loan was explicitly limited to the costs of attending the school, and one of the loans, that of January 2006 said that TERI was guaranteeing the loan, while the latter two stated that TERI had the option to guarantee the loan. Each of these loans was allegedly then repackaged into the one of the three trusts who are currently the Defendants in this matter (NCSLT 2006-1, 2006-4, 2007-1).

LEGAL STANDARD

Summary judgment should be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. FED. R. CIV. P. Rule 56(a) (incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7056).

The moving party has the burden of establishing the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). If the moving party

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CONT...

John Martin Mata

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shows the absence of a genuine issue of material fact, the nonmoving party must go beyond the pleadings and identify facts that show a genuine issue for trial. *Id.* at 324. The court must view the evidence in the light most favorable to the nonmoving party. *Bell v. Cameron Meadows Land Co.*, 669 F.2d 1278, 1284 (9th Cir. 1982). All reasonable doubt as to the existence of a genuine issue of fact should be resolved against the moving party. *Hector v. Wiens*, 533 F.2d 429, 432 (9th Cir. 1976).

If the moving party meets its initial burden, the non-moving party must set forth, by affidavit or as otherwise provided in Rule 56, specific facts showing that there is a genuine issue for trial. *Id.* However, the non-moving party "must do more than simply show that there is some metaphysical doubt as to the material fact...." *Matsushita Electrical Industry Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-587 (1986).

A fact is material if it "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.*

LEGAL ANALYSIS

Defendants are seeking to show that Debtors' debts are exempt from discharge under 11 U.S.C. § 523.

11 U.S.C. § 523(a)(8) states:

(a) A discharge under section 727, 1141, 1228(a), or 1328(b) of this title does not discharge an individual debtor from any debt –

(8) unless excepting such debt from discharge would impose an undue hardship on the debtor and the debtor's dependents, for –

(A)(i) an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

(ii) an obligation to repay funds received as an educational benefit, scholarship or stipend; or

(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue

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Code of 1986, incurred by a debtor who is an individual

Defendants have stated that their motion for summary judgment is based purely nondischargeability of the debt under 11 U.S.C. § 523(a)(8)(A)(i), and the Court will treat Defendants' and Debtors' argument accordingly. In order for Defendants to establish that Debtors' debts aren't dischargeable under § 523(a)(8)(A)(i), they must prove two elements:

- 1 that the loans to the Debtors were "educational loans" and;
- 2 that the loans were made under any program funded in whole or in part by a nonprofit institution.

It is important to note that discussion of the determination of the dischargeability of student debts, including the discussions that occurred within the court cases cited, all occurs under the shadow of the general rule that exceptions to discharge are to be construed narrowly in favor of the debtor. 4 COLLIER ON BANKRUPTCY P 523.05 (Richard Levin & Henry J. Sommer eds., 16th ed.).

I. Whether Debtors' loans were "educational loans."

Courts analyze whether loans are "educational loans" separately from considering whether they are "qualified educational loans" under 26 U.S.C. § 221. *In re Oliver*, 499 B.R. 617, 623-4 (Bankr. S.D.In. 2013). § 523(a)(8)(A)(i) requires that the loans be "educational loans", while § 523(a)(8)(B) has a higher standard, requiring that the loans be "qualified educational loans." *Id.* (finding that all qualified educational loans are educational loans, but not all educational loans are qualified). The 9th Circuit Bankruptcy Appellate Panel has followed this approach, holding that an "educational loan" was distinct from an "educational benefit" or a "qualified educational loan." *See Kashikar v. Turnstile Capital Mgmt., LLC (In re Kashikar)*, 567 B.R. 160, 166 (9th Cir. BAP 2017).

The question of whether a loan is an "educational loan" is determined by its stated purpose, not its actual use. *See Busson-Sokolik v. Milwaukee Sch. of Eng'g (In re Busson-Sokolik)*, 635 F.3d 261, 266 (7th Cir. 2011). The fact that a debtor spent loan proceeds in excess of tuition and expenses does not except debt from discharge. *Murphy v. Pa. Higher Educ. Assistance Agency*, 282 F.3d 868, 873 (5th Cir. 2002). Educational purpose encompasses both tuition and fees, as well as room, board, and miscellaneous personal expenses, as part of the school's general cost of attendance as calculated by statute. *Id.* at 872-3 (citing 20 U.S.C. § 1087II(2)-(3)). It is up to the individual schools to calculate their reasonable costs of attendance, which determines the disbursement by lenders (with debtors having the choice of how much of said disbursement to accept and use).

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Each of the respective loans in this matter was explicitly restricted to the costs of attending Linda Loma University. (Decl. Bradley Luke, ECF 33, Exhibit A-1 (page 12) (January 2006 loan), Exhibit A-5 (page 57) (September 2006 loan), Exhibit A-9 (page 98) (August 2007 loan)). This appears to clearly state their purpose.

Debtors seeks to challenge the status of the loans as "educational loans" on three grounds. The first is that the amounts disbursed were far in excess of Linda Loma's graduate cost of attendance. The second is that the loans carry an unusually high interest rate, have high origination fees, and required a cosigner and credit check. The third is that the loans are not educational loans because they were provided directly to the consumer and ignored the school's financial aid office.

While limitation to the cost of attendance is an aspect of "qualified educational loans" not "educational loans", disbursement in great excess of the actual amount needed for educational purpose does argue against a finding that the loan was intended for educational purposes and for a purpose closer to a "student credit card" as the Debtors argue. However, Debtors inexcusably attempts to present the mere tuition cost and mandatory fees of the cost of attending Linda Loma, while completely ignoring the room and board and other miscellaneous expenses explicitly included in the calculations of the true cost of attendance. *See Plaintiff's Opposition to Motion for Summary Judgment*, Exh. 3 at 25, ECF No. 46 (finding a cost of attendance for Loma Linda of 19,640 purely through the addition of the average full-time graduate tuition of 17,760 and the required fees of 1,880, as reported by Institutional Characteristics). By contrast, Debtors have shown that the amounts were in line with Linda Loma's stated cost of attendance for graduate students. *Supplemental Request for Judicial Notice* Exh. 1-3, ECF No. 565 (showing that the tuition costs of Debtor's program rose from between \$33,480-\$47,895 to \$39,960-57-160 over the course of his three years of attendance, while also showing room and board calculations of more than \$15,000 for each year that Debtor attended).

On the second, the Court finds, as other courts have, that commercial features cannot disqualify a loan from being educational, with the sole test being its purpose. *Page v. JP Morgan Chase Bank (In re Page)*, 592 B.R. 334, 336 (8th Cir. BAP 2018). On the third, the Court repeats its finding that purpose controls over form, while also noting that other courts have analyzed direct to consumer loans and the question of whether the loan was disbursed directly to the consumer was a complete non-factor in their decision as to whether they were "educational loans" or not. *See id.*; *see also McDaniel v. Navient Solutions Inc. (In re McDaniel)*, 590 B.R. 537, 542, 546-551 (Bankr. D.Colo. 2018).

In view of the above, the Court cannot find, even after drawing all reasonable

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inferences for the Debtors' that they have established any genuine issues of material fact, or questions of law, as to the question of whether these loans were "educational loans."

II. Whether the loans were "funded, in whole or in part, by a nonprofit institution."

In the current case, Defendants' claim to exemption from discharge under 11 U.S.C. § 523(a)(8)(A)(i) is dependent on their showing that a nonprofit has funded the loan program under which the loan was made, either in whole, or in part. Defendants argue that the guarantee of the loan program through which Debtors' loan was made by The Education Resources Institute (TERI), a nonprofit institution, satisfies this requirement. This splits the question into two elements. First, whether TERI's guarantee is considered to have legally "funded" the loan program in question. Secondly, whether TERI did in fact guarantee the loans at issue, an issue of factual, not legal, controversy. Debtors raises a third issue, by arguing that the TERI's alleged voiding of the guarantees of the loans in question should strip the loans retroactively of their status as being guaranteed by a nonprofit institution.

A. Whether a nonprofit can "fund" a loan program through guaranteeing the loans.

This question has been litigated throughout several districts, often involving the NCSLTs, with the general consensus of the courts being that a nonprofit guaranteeing a loan functions is the nonprofit funding, in whole or in part, the loan program under which the educational loan was made. *See O'Brien v. First Marblehead Educ. Res., Inc. (In re O'Brien)*, 419 F.3d 104, 106 (2nd Cir. 2005); *see also Educ. Res. Inst. Inc. v. Taratuska (In re Taratuska)*, 2008 U.S. Dist. LEXIS 93206 at *17-18 (D. MA 2008) (*reversing In re Taratuska*, 374 B.R. 24, 29 (Bankr. D.MA 2007), the only case cited by Debtors supporting their position that guaranteeing and funding are two separate actions, meaning that nonprofits aren't "funding" the loan through their guarantee). The 9th Circuit Bankruptcy Appellate Panel agrees with this line of reasoning, interpreting (A)(i) as covering "an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit or nonprofit institution." *Inst. of Imaginal Studies v. Christoff (In re Christoff)*, 527 B.R. 624, 632 (9th Cir. BAP 2015). However, the BAP's interpretation of (A)(i) has never been litigated.

In contrast to the general trend cited above, the District of Maine reached an opposite conclusion, finding that the guarantee of a loan by a nonprofit did not constitute the "funding" of the loan. *Wiley v. Wells Fargo Bank, N.A. (In re Wiley)*, 579 B.R. 1, 6-7 (Bankr. D.Me. 2017). The *Wiley* court built this finding on their interpretation of *O'Brien*, stating that it required the nonprofit to both guarantee the loan and fund the

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loan program, as well as on *Educ. Res. Inst., Inc. v. Hammarstrom* (*In re Hammarstrom*), 95 B.R. 160, 165 (Bankr. N.D. Cal. 1989). *In re Wiley*, 579 B.R. at 6-7. However, there are two problems with there interpretation. The first is that *Hammerstrom*'s requirement of the direct funding of the loan, as received by the debtor, by the nonprofit was explicitly challenged by the 9th Circuit Bankruptcy Appellate Panel in *HEMAR Service Corp., Inc. v. Pilcher*, 149 B.R. 595, 600 (9th Cir. BAP 1993) (reversing the bankruptcy court's holding that a student loan could be discharged due to lack of a nonprofit providing the actual funds that debtor received, and finding that *Hammarstrom*'s requirement was a pure judicial construction, with the real test being whether the nonprofit had played "any meaningful part" in making the funds available under the program). Secondly, the *Wiley* court's interpretation of *O'Brien* is deeply flawed at best. The 2nd Circuit in *O'Brien* did state that the nonprofit had to "fund" the program, however, it defined "funding" using the bankruptcy court's test which required that the nonprofit actually pay out the guarantees when the triggering event occurred, and that the loan program's existence was causally linked to the nonprofit's provision of a guarantee to the for-profit lender for the loan. *See O'Brien*, 419 F.3d at 105-6 (specifically adopting the test created by the S.D.N.Y. Bankruptcy Court in *In re O'Brien*, 318 B.R. 258, 260-1 (Bankr. S.D.N.Y. 2005)).

The Court finds persuasive the consensus of courts around the country that a nonprofit's guaranteeing of a loan program satisfies the requirement of "funding" under 11 U.S.C. § 523(a)(8)(A)(i) for the purposes of exempting a loan from discharge, including that of the 9th Circuit Bankruptcy Appellate Panel, and also adopts this interpretation. As such, the Court agrees with Defendants that, if TERI has in fact guaranteed the loan program in question, they are entitled to judgment as a matter of law.

B. Whether Defendant has established that there is no genuine issue of material fact that TERI actually guaranteed the loan.

1. Did TERI, on paper, guarantee the loans?

Debtors argue that there is a material issue of fact concerning whether or not TERI was the actual guarantor of the September 2006 and August 2007 loans. This is based in part on two related grounds: the first is that two of the three loan agreement do not explicitly state that TERI will guarantee the loans, merely that they have the option to do so. The mere existence of an option, rather than direct proof that TERI in fact guaranteed the loan program in question, has been found sufficient to create a genuine issue of material fact. *See Golden et. al v. JP Morgan Chase Bank, et. al.*, 596 B.R. 239, 266 (Bankr. E.D.N.Y. 2019). The second issue raised by Debtors is that the NSCLT trust agreement schedules does not specifically list the NextStudent Graduate

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Loan as one of the programs transferred or sold to the Trusts (listing instead NextStudent Alternative Loan Program). This has also been found sufficient to create a material issue of fact. *See National Coll. Student Loan Trust 2007-4 v. Watson*, 2016 N.Y. Misc. LEXIS 5116 at *7 (N.Y.City Civ.Ct. 2016).

However, it is clear within this case that Debtor's loans were in fact guaranteed by TERI, and that they were each sold to the respective trusts that make up the defendants. Defendants have disclosed the Loan Financial Activity pages, which identify Debtors by name, and also state that the loans were guaranteed by TERI. Decl. Luke ¶15; *Id.* Exh. A-3 (page 18 within the declaration). It also includes the identification by social security number of Debtor within the trusts' contained loans, as well as guarantee agreements between TERI and each of the individual trusts. By contrast, in *Golden*, the genuine issue of material fact was due to the Defendants only providing the loan documentation stating that the loan potentially could be guaranteed by TERI. In short, the Court cannot find that there is a genuine issue of fact as to whether TERI, on paper, guaranteed the loan program which provided Debtors' loans.

2. Was TERI actually guarantee the loans?

In order to fund a loan program through guaranteeing the loans, the guarantee must actually come into effect, instead of just being a paper promise to render the debt exempt from discharge. *See O'Brien*, 419 F.3d at 105-6. Debtors' student loan servicer has declared that Debtors' student loans were guaranteed by TERI, but Debtors allege that the guarantees did not actually occur. Decl. Luke ¶¶ 17, 25, 34 (ECF No. 33-4). As noted by Debtors, evidence demonstrating the actual guarantee by TERI of the loans within the loan program would include guarantee agreements between TERI and the loan originators and, evidence that the loan originators actually paid TERI guarantee fees as agreed upon. *See Plaintiff's Opposition to Defendants' Motion for Summary Judgment*, Exh. 4, Defendants Responses and Objections to Requests for Production No. 7, ECF No. 46 (Debtors requesting "all documents demonstrating that TERI guaranteed the loans" including checks payable by the loan originators to TERI for the guarantee fees and guarantee agreements between TERI and the loan originators).

However, Debtors appear to have answered this question themselves, when they showed that Defendants had refunded the Royal Bank of Scotland (who wholly owned, at the time of Debtors' loan creation Citizens Bank, who owned Charter One, the loan originator) \$46,000,000 in guarantee fees as part of resolving RBS secured claims against TERI concerning loans extended prior to TERI's bankruptcy. *Id.* at Exh. 6, Fourth Amended Joint Plan of Reorganization of The Education Resources Institute, Inc at page 65; *Id.* at 11 (defining "collateral account" as a pledged account, victory fund, pool account, or joint pool account—all of which were accounts

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containing guarantee fees intended for the payment of guarantees should the conditions be triggered); *see also* Supplementary Request for Judicial Notice, Exh. 4, Disclosure Statement for Fourth Amended Joint Plan of Reorganization of The Education Resources Institute at pages 3-7, ECF No. 55 (explaining how the myriad banks decided how TERI should segregate or not segregate the guarantee fees they paid in view of paying out guarantees on the loan). The massive balances on the collateral accounts of the NCSLTs, including all three trusts in question, revealed by the disclosure statement to the confirmed Fourth Amended Plan, shows that the combined guarantee fees sequestered for guarantee payments, as well as the recoveries collected, numbered in the hundreds of millions of dollars. Disclosure Statement at page 11.

It is difficult for this Court to find that Debtors have raised a genuine question of fact as to the substance of TERI's guarantees, when the Debtors themselves have put forward clear evidence that tens of millions of dollars were being paid in guarantee fees to TERI, including tens of millions by Charter One, and TERI was simultaneously shelling out tens of millions of dollars in loan purchases as part of the guarantee.

- C. *Whether TERI has voided their guarantee of the loan program in question, and whether, if shown, this would retroactively change whether the loans were funded by a nonprofit institution.*

Debtors correctly assert that TERI's debt guarantees for loans extended prior to TERI's petition were voided as a part of their confirmed plan for reorganization. Fourth Amended Plan at page 40, ECF No. 46. Defendants appear to be trying to confuse the Court by pointing to the transition agreement between TERI and RBS through which RBS agreed to accept the transfer of "pipeline" loans (loans applied for before, or on TERI's petition, but extended by the lender after). *See* Plaintiff's Opposition, Exh. 5, Transition Agreement Between TERI and RBS at pages 3-4. However, it is clear that the settling of the guarantees for loans prior to bankruptcy, as illustrated above, was the foundation of TERI's reorganization, and the Court proceeds accordingly.

However, even if the guarantee is no longer extant, the Court does not find that this changes the fundamental nature of how the loans were funded in the first place. § 523(a)(8)(A)(i) states that the exemption of a loan from discharge is dependent on the loan program under which it was made, not the context under which it still exists. The exemptions under § 523 look at actions of the debtor at the time that they took the action in question, not the status of those actions at the time of the current proceedings. Debtor should not be allowed to discharge a debt that he knew was intended to be exempt at the time he made the loan, was made under a program clearly

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intended to protect the loans from discharge, and would still be exempt at the current time, barring the fact that the guarantor collapsed because too many other debtors had defaulted on their loans.

As such, the Court finds unpersuasive the argument that the rejection of TERI's argument that TERI's bankruptcy has retroactively changed the status of Debtors' debt.

TENTATIVE RULING

THE COURT FINDS THAT DEFENDANTS ARE ENTITLED TO JUDGMENT AS A MATTER OF LAW, AND THAT THERE ARE NO GENUINE DISPUTES OF MATERIAL FACT. DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IS HEREBY GRANTED.

Party Information

Debtor(s):

John Martin Mata

Represented By
Michael E Clark

Defendant(s):

National Collegiate Student Loan

Represented By
Damian P Richard

NATIONAL COLLEGIATE

Represented By
Damian P Richard

National Collegiate Student Loan

Represented By
Damian P Richard

Joint Debtor(s):

Livier Mata

Represented By
Michael E Clark

Movant(s):

National Collegiate Student Loan

Represented By
Damian P Richard

NATIONAL COLLEGIATE

Represented By

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Damian P Richard

National Collegiate Student Loan

Represented By
Damian P Richard

Plaintiff(s):

John Martin Mata

Represented By
Michael E Clark
Austin C Smith

Livier Mata

Represented By
Michael E Clark
Austin C Smith

Trustee(s):

Helen R. Frazer (TR)

Pro Se

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6:13-30625 John Martin Mata

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Adv#: 6:18-01089 Mata et al v. National Collegiate Student Loan Trust 2006-1 et a

#27.00 CONT-Status Conference RE: [1] Adversary case 6:18-ap-01089. Complaint by John Martin Mata, Livier Mata against National Collegiate Student Loan Trust 2006-1, NATIONAL COLLEGIATE STUDENT LOAN TRUST 2006-4, National Collegiate Student Loan Trust 2007-1. (Charge To Estate) - Filing Fee Not Required. Determination of Discharge Under 11 U.S.C. Sect 523(a)(8) Nature of Suit: 63 - Dischargeability - 523(a)(8), student loan, 91 - Declaratory judgment

From: 6/27/18, 8/22/18, 2/27/19

Also #26

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Martin Mata

Represented By
Michael E Clark

Defendant(s):

National Collegiate Student Loan

Represented By
Damian P Richard

NATIONAL COLLEGIATE

Represented By
Damian P Richard

National Collegiate Student Loan

Represented By
Damian P Richard

Joint Debtor(s):

Livier Mata

Represented By

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Michael E Clark

Plaintiff(s):

John Martin Mata

Represented By
Michael E Clark
Austin C Smith

Livier Mata

Represented By
Michael E Clark
Austin C Smith

Trustee(s):

Helen R. Frazer (TR)

Pro Se

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6:18-12440 Paul Pound

Chapter 7

Adv#: 6:18-01147 Lloyd v. Pound

#28.00 CONT Motion For Summary Judgment

From: 11/14/18, 12/5/18, 1/16/19, 2/6/19

Also #29

EH__

Docket 6

Tentative Ruling:

2/6/2019

I. PROCEDURAL BACKGROUND

On March 26, 2018, Paul Pound ("Debtor") filed a Chapter 7 voluntary petition. On July 2, 2018, April Lloyd ("Plaintiff") filed a complaint against Debtor to determine dischargeability of debt pursuant to 11 U.S.C. § 523(a)(2)(a), (a)(4), and (a)(6). On July 9, 2018, Debtor obtained a discharge and, four days later, the case was closed.

On July 31, 2018, Debtor filed his answer. On October 3, 2018, Plaintiff filed a motion for summary judgment. After a stipulated continuance of the hearing, Debtor filed his opposition on October 31, 2018.

II. FACTUAL BACKGROUND

On November 13, 2016, Marcus Lloyd, Plaintiff's brother entered into a purchase agreement with Debtor on behalf of Juanita Lloyd ("Juanita"), Plaintiff's mother, which was intended to be structured, according to Plaintiff, to "retrieve the equity in Juanita's home and lower her mortgage payments." Instead, according to Plaintiff, the agreement "was constructed to deprive Juanita of her home without receiving value

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from the Debtor." Plaintiff's account of the details of the purchase agreement, recited on page 12 of the motion for summary judgment, are as follows:

The Purchase Agreement stated that the purchase price was \$670,000. The purchase price comprised of 75% in financing, 20% in seller carry back, and a 5% cash down payment. After closing, the seller was to release the seller carry back, and receive equity in return, and the seller was to reimburse the buyer the 5% cash down payment, and receive equity in return. Once the seller carry back was released, and the down payment reimbursed, all equity was to belong to the seller. Furthermore, the Purchase Agreement required that rental payments, equal to the amount of the mortgage payment, be made each month. In addition, at the time of closing, the Debtor was entitled to 3% of the purchase price as a real estate fee. Per the Purchase Agreement, Juanita deposited monthly payments into to [sic] the Debtor's Bank of American account starting around December 2006. She continued to make these payments until May 2007, when the Debtor requested that Juanita submit payments to a new account with Washington Mutual.

[Dkt. No. 6, pg 12].

Ultimately, on November 16, 2009, Juanita filed a complaint against Debtor in state court, asserting causes of action for fraud, conversion, and breach of contract. On August 30, 2011, Debtor and Juanita entered into a stipulated judgment which provided that Debtor would make periodic payments to Juanita totaling \$60,000. In the event that Debtor failed to comply with the payment schedule, the state court would enter judgment for the remaining balance.¹

In January 2014, Debtor stopped adhering to the periodic payment schedule. On October 14, 2016, Plaintiff moved for entry of judgment in state court and, on December 20, 2016, the state court entered judgment in the amount of \$42,000.

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III. DISCUSSION

Plaintiff moves to have this debt deemed nondischargeable pursuant to three different provisions: (1) 11 U.S.C. § 523(a)(2)(A); (2) 11 U.S.C. § 523(a)(4); and (3) 11 U.S.C. § 523(a)(6).

11 U.S.C. § 523(a)(2)(A), (a)(4), and (a)(6) state:

- (a) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt –
 - (2) for money, property, services, or an extension, renewal, or refinancing of creditor, to the extent obtained by –
 - (A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition;
 - (4) for fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny;
 - (6) for willful and malicious injury by the debtor to another entity or to the property of another entity

The elements of a § 523(a)(2)(A) claim are well-established: (a) the debtor made representations; (b) which were known to be false; (c) the representations were made with the intention and purpose of deceiving the creditor; (d) the creditor relied on such representations; (e) the creditor sustained loss and damage as a proximate result of the representations. *See, e.g., In re Sabban*, 600 F.3d 1219, 1222 (9th Cir. 2010).

11 U.S.C. § 523(a)(4) contains three different exceptions to dischargeability: (1) fraud or defalcation while acting in a fiduciary capacity; (2) larceny; and (3) embezzlement. Regarding fraud or defalcation while acting in a fiduciary capacity, the elements are:

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(1) the existence of an express trust; (2) the debt was caused by fraud or defalcation; and (3) the debtor acted as a fiduciary to the creditor at the time the debt was created. *See, e.g., In re Niles*, 106 F.3d 1456, 1459 (9th Cir. 1997). "Larceny is the fraudulent and wrongful taking and carrying away of the property of another with intent to convert the property to the taker's use without the consent of the owner." 4 COLLIER'S ON BANKRUPTCY ¶ 523.10[2] (16th ed. 2009). Finally, embezzlement, contains three elements: "(1) property rightfully in the possession of a nonowner; (2) nonowner's appropriation of the property to a use other than which it was entrusted; and (3) circumstances indicating fraud." *In re Littleton*, 942 F.2d 551, 555 (9th Cir. 1991).

To prevail on a claim under § 523(a)(6), a creditor must demonstrate three elements: (1) willful conduct; (2) malice; and (3) causation. *See In re Butcher*, 200 B.R. 675, 680 (Bankr. C.D. Cal. 1996) (*quoting In re Apte*, 180 B.R. 223, 230 (B.A.P. 9th Cir. 1995)). A willful injury is a "deliberate or intentional *injury*, not merely a deliberate or intentional *act* that leads to injury." *Kawaauhau v. Geiger*, 523 U.S. 57, 61 (1998). "A malicious injury involves (1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse." *In re Barboza*, 545 F.3d 702, 706 (9th Cir. 2008) (*quoting In re Jercich*, 238 F.3d 1202, 1209 (9th Cir. 2001)).

Summary judgment should be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *See* FED. R. CIV. P. 56(c) (incorporated into bankruptcy proceedings by FED. R. BANKR. P. 7056). This required the moving party to "affirmatively demonstrate that no reasonable trier of fact could find other than for the moving party." *Soremkun v. Thrifty Payless, Inc.*, 509 F.3d 978, 984 (9th Cir. 2007).

The moving party has the burden of establishing the absence of a genuine issue of material fact. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). If the moving party shows the absence of a genuine issue of material fact, the nonmoving party must go beyond the pleadings and identify facts that show a genuine issue for trial. *See id.* at 324. The court must view the evidence in the light most favorable to the nonmoving party. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). All reasonable doubt as to the existence of a genuine issue of fact should be resolved against the moving party. *See id.*

If the moving party meets its initial burden, the non-moving party must set forth, by

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affidavit or as otherwise provided in Rule 56, specific facts showing that there is a genuine issue for trial. *See id.* The non-moving party, however, "must do more than simply show that there is some metaphysical doubt as to the material fact...." *Matsushita Electrical Industry Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-587 (1986).

A fact is material if it "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.*

A. Issue Preclusion on Plaintiff's Claim under 11 U.S.C. § 523(a)(6)

Issue preclusion applies in nondischargeability proceedings to bar the relitigation of factual issues that were determined in a prior state court action. *See, e.g., Grogan v. Garner*, 498 U.S. 279, 284-85, n.11 (1991). To determine the issue-preclusive effect of a California state court's judgment, California preclusion law must be applied. *See* 28 U.S.C. § 1738; *Marrese v. Am. Acad. of Orthopaedic Surgeons*, 470 U.S. 373, 380 (1985); *Gayden v. Nourbakhsh (In re Nourbakhsh)*, 67 F.3d 798, 800 (9th Cir. 1995). Under California law, the party asserting issue preclusion has the burden of establishing the following "threshold" requirements:

- (1) the issue sought to be precluded must be identical to that decided in a former proceeding;
- (2) the issue must have been actually litigated in the former proceeding;
- (3) it must have been necessarily decided in the former proceeding;
- (4) the decision in the former proceeding must be final and on the merits; and,
- (5) the party against whom preclusion is sought must be the same as, or in privity with, the party to the former proceeding.

Harmon v. Kobrin (In re Harmon), 250 F.3d 1240, 1245 (9th Cir.2001).

Additionally, the application of issue preclusion requires a "mandatory 'additional'

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inquiry into whether imposition of issue preclusion would be fair and consistent with sound public policy." *In re Khaligh*, 338 B.R. 817, 824–25 (9th Cir. B.A.P. 2006). As stated by the California Supreme Court

We have repeatedly looked to the public policies underlying the doctrine before concluding that collateral estoppel should be applied in a particular setting.... Accordingly, the public policies underlying collateral estoppel—preservation of the integrity of the judicial system, promotion of judicial economy, and protection of litigants from harassment by vexatious litigation—strongly influence whether its application in a particular circumstance would be fair to the parties and constitutes sound judicial policy.

Lucido v. Super. Ct., 51 Cal. 3d 335, 342–43 (Cal. 1990) (internal citations omitted).

As noted by Plaintiff, it is true that, in some situations, a stipulated judgment can form the basis for collateral estoppel. "The parties need only 'manifest an intent to be collaterally bound by' the terms of the stipulated judgment." *In re Boyce*, 2016 WL 6247612 at *3 (B.A.P. 9th Cir. 2016) (quoting *Cal. State Auto. Ass'n Inter-Ins. Bureau v. Super. Ct.*, 50 Cal. 3d 658, 664 (Cal. 1990)).

Here, Debtor has filed a declaration which states that "[t]he judgment was never intended to be dispositive of the facts of the case." [Dkt. No. 17, ¶ 11]. This is sufficient to create a genuine issue of material fact and defeat Plaintiff's argument as to issue preclusion at the summary judgment stage. *See In re Jun Ho Yang*, 698 Fed. Appx. 374 (9th Cir. 2017) ("Here, Jun Ho Yang submitted a declaration that he did not intend the stipulated facts in the Settlement Agreement and Stipulation for Entry of Judgment in the prior state court action to have a preclusive effect in future proceedings. Such a declaration (even if self-serving) creates a genuine issue of material fact as to the parties' intent.")

B. Absence of a Genuine Issue of Material Fact

Plaintiff's alternative argument is that summary judgment is warranted because uncontroverted facts establish that the debt is non-dischargeable. The Court disagrees with this argument.

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Regarding § 523(a)(2)(A), Debtor denies, *inter alia*, that he had the intent to deceive Plaintiff, and supports such denial with factual assertions establishing that possibility. "The intent to deceive is a factual question and largely depends upon the credibility of witnesses and the weight to be given to their testimony." *In re Sutton*, 2015 WL 7776658 at *6 (B.A.P. 9th Cir. 2015). In this case, "where different ultimate inferences may be drawn from the parties' differing characterization of the facts, summary judgment is inappropriate." *In re Allen*, 2018 WL 909876 at *3 (Bankr. C.D. Cal 2018) (citing *Sankovich v. Ins. Co of N. Am.*, 638 F.2d 136, 140 (9th Cir. 1981); *see also In re Lucas*, 386 B.R. 332 (Bankr. D.N.M. 2008) ("Rarely is it appropriate to grant summary judgment on a claim for nondischargeability based on 11 U.S.C. § 523(a)(2)(A) because intent to defraud often depends on the credibility of witnesses."). Here, Debtor asserts that it was Plaintiff that first breached the purchase agreement, and that, upon such breach, Debtor continued to act in accordance with the purchase agreement for several months after the breach. The Court concludes that Debtor has established, at the least, a genuine issue of material fact with regard to whether Debtor had an intent to deceive Plaintiff.

Regarding § 523(a)(4), Plaintiff argues that the payments her mother made pursuant to the purchase agreement were ultimately embezzled by Debtor. In support of such argument, Plaintiff relies upon extrinsic evidence about the parties' intent when entering into the purchase agreement. Debtor has presented a different account of the parties' intent regarding the purchase agreement which, if true, would not allow for Debtor's actions to be characterized as embezzlement. Therefore, the Court concludes that Debtor has entitled a genuine issue of material fact with regard to Plaintiff's claim pursuant to § 523(a)(4).

Regarding § 523(a)(6), the Court concludes that Debtor has established a genuine issue of material fact for the same reason as noted in the two preceding paragraphs – namely that Debtor has asserted that it was Plaintiff's mother who first breached the purchase agreement, and that Debtor made a good-faith effort to comply with the terms of the purchase agreement for several months after the original breach.

TENTATIVE RULING

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CONT... Paul Pound

Chapter 7

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Paul Pound

Represented By
Todd L Turoci

Defendant(s):

Paul M Pound

Represented By
Todd L Turoci

Movant(s):

April Lloyd

Represented By
Chane Buck

Plaintiff(s):

April Lloyd

Represented By
Chane Buck

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, March 27, 2019

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6:18-12440 Paul Pound

Chapter 7

Adv#: 6:18-01147 Lloyd v. Pound

#29.00 CONT Status Conference RE: Complaint by April Lloyd against Paul M Pound. 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

From: 9/5/18, 11/14/18, 12/5/18, 1/16/19, 2/6/19

Also #28

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Pound

Represented By
Todd L Turoci

Defendant(s):

Paul M Pound

Represented By
Todd L Turoci

Plaintiff(s):

April Lloyd

Represented By
Chane Buck

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

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6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01329 DIAMOND v. Empire Partners, Inc., a California Corporation et

#30.00 Order To Show Cause As To Why This Adversary Proceeding Should Not Be Dismissed

Also #31

EH__

Docket 423

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Empire Land, LLC

Represented By
James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

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CONT... **Empire Land, LLC**
Previti Realty Fund, L.P.

Chapter 7

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

The James Previti Family Trust

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
John P Reitman
Peter M Bransten
Cynthia M Cohen
Royce Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Royce Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Wednesday, March 27, 2019

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3:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01329 DIAMOND v. Empire Partners, Inc., a California Corporation et

#31.00 CONT Status Conference re complaint
(Defendant - Empire Partners, Inc) HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
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10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/13/27

Also #30

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By
James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

**United States Bankruptcy Court
Central District of California
Riverside
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CONT... Empire Land, LLC

Chapter 7

Defendant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Previti Realty Fund, L.P.

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

The James Previti Family Trust

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
John P Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder

**United States Bankruptcy Court
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Chapter 7

Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

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6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:09-01235 DIAMOND v. Empire Partners, Inc., a California Corporation et

#32.00 Order To Show Cause As To Why This Adversary Proceeding Should Not Be Dismissed

Also #33

EH__

Docket 475

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

David Loughnot

Jonathan A Loeb

Jeffrey Rosenfeld

DOES 1 through 100, inclusive

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

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3:00 PM

CONT... Empire Land, LLC

Chapter 7

Plaintiff(s):

RICHARD K. DIAMOND

Represented By

Richard S Berger - SUSPENDED -
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
John P Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By

Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:09-01235 DIAMOND v. Empire Partners, Inc., a California Corporation et

#33.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
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10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/13/19

Also #32

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By
James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

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CONT... Empire Land, LLC

Chapter 7

Defendant(s):

Empire Partners, Inc., a California

Represented By
David Loughnot
Jonathan A Loeb
Jeffrey Rosenfeld

DOES 1 through 100, inclusive

Pro Se

Plaintiff(s):

RICHARD K. DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
John P Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
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Riverside
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Courtroom 303 Calendar**

Wednesday, March 27, 2019

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3:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#34.00 CONT Motion By Defendant Empire Partners, Inc To Compel Compliance With Rule 45 Subpoena Duces Tecum Served On Non-Party Timothy Sullivan, And For Sanctions

From: 1/30/19, 3/13/19

Also #35 & #36

EH__

Docket 498

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

Jonathan A Loeb

Jeffrey Rosenfeld

P Sabin Willett

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Movant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

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3:00 PM

CONT... Empire Land, LLC

Chapter 7

Neil M Miller

Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
Cynthia M Cohen
Royce Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Royce Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#35.00 Order To Show Cause As To Why This Adversary Proceeding Should Not Be Dismissed

Also #34 & #36

EH__

Docket 516

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Empire Land, LLC

Represented By
James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

James P Previti

Represented By
Jonathan A Loeb

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

CONT...

Empire Land, LLC

Chapter 7

Richard S Berger - SUSPENDED -

Rodger M Landau

Richard K Diamond

Peter M Bransten

Aleksandra Zimonjic

Monica Rieder

Lisa N Nobles

Peter J Gurfein

Paul Hastings

Roye Zur

Amy Evans

Best Best & Krieger

Franklin C Adams

Thomas J Eastmond

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#36.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13, 12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
01/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/27/19

Also #34 & #35

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By
James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

Defendant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I Gottfried

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

CONT... Empire Land, LLC

Chapter 7

Aleksandra Zimonjic
Monica Rieder
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00105 Diamond v. Empire Partners, Inc. et al

Chapter 0

#37.00 CONT Motion for Protective Order re Third Party Subpoena

From: 1/30/19, 3/13/19

Also #38

EH__

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Defendant(s):

Empire Partners, Inc.

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Empire Partners, Inc.

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Larry R Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Neil Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

O'Melveny & Myers LLP

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners, Inc. et al Chapter 0

Peter Healy Pro Se

Paul Roman Pro Se

Movant(s):

KPMG LLP Represented By
Richard W Esterkin

Plaintiff(s):

Richard K Diamond Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00105 Diamond v. Empire Partners, Inc. et al

Chapter 0

#38.00 CONT Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **KPMG LLP**, and For Sanctions

From: 1/30/19, 3/13/19

Also #37

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Defendant(s):

Empire Partners, Inc.

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Empire Partners, Inc.

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Larry R Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Neil Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

CONT... Diamond v. Empire Partners, Inc. et al Chapter 0

O'Melveny & Myers LLP Pro Se

Peter Healy Pro Se

Paul Roman Pro Se

Movant(s):

Empire Partners, Inc. Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

James P Previti Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Larry R Day Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Neil Miller Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Plaintiff(s):

Richard K Diamond Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00104 Diamond v. Empire Partners, Inc. et al

Chapter 0

#39.00 CONT Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **William Haegele**, and For Sanctions

From: 1/30/19, 3/13/19

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Defendant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb
Larry R Day	Represented By Jonathan A Loeb
Neil Miller	Represented By Jonathan A Loeb
Paul Roman	Pro Se
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se

Movant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb
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**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

CONT...

Diamond v. Empire Partners, Inc. et al

Chapter 0

Jeffrey Rosenfeld

Plaintiff(s):

Richard K Diamond

Represented By
Peter M Bransten

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners, Inc. et al**
Misc#: 6:18-00103 Diamond v. Empire Partners, Inc. et al

Chapter 0

#40.00 CONT Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **Analysis Group, Inc.**, and For Sanctions

From: 1/30/19, 3/13/19

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Defendant(s):

Empire Partners, Inc.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Larry R Day	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Neil Miller	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Paul Roman	Pro Se
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

CONT... **Diamond v. Empire Partners, Inc. et al**

Chapter 0

Movant(s):

Richard K Diamond

Represented By
Peter M Bransten

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Larry R Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Neil Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Plaintiff(s):

Richard K Diamond

Represented By
Peter M Bransten

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

: **Diamond v. Empire Partners Inc et al**
Misc#: 6:18-00102 Diamond v. Empire Partners Inc et al

Chapter 0

#41.00 CONT Motion to Compel Compliance with Rule 45 Subpoena Duces Tecum Served On Non-Party **Bruce Deal**, and For Sanctions

From: 1/30/19, 3/13/19

EH__

Docket 6

Tentative Ruling:

- NONE LISTED -

Party Information

Defendant(s):

Empire Partners Inc	Represented By Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jeffrey Rosenfeld
Larry R Day	Represented By Jeffrey Rosenfeld
Neil Miller	Represented By Jeffrey Rosenfeld
Paul Roman	Pro Se
O'Melveny & Myers LLP	Pro Se
Peter Healy	Pro Se

Movant(s):

Empire Partners Inc	Represented By Jonathan A Loeb
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, March 27, 2019

Hearing Room 303

3:00 PM

CONT...

Diamond v. Empire Partners Inc et al

Chapter 0

Jeffrey Rosenfeld

Plaintiff(s):

Richard K Diamond

Represented By
Peter M Bransten

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#1.00 CONT Status Conference on Complaint fld 8-25-17 - Dischargeability, willful and malicious injury, validity, priority or extent of lien or other interest in property, injunctive relief

From: 11/16/17, 11/1/18, 12/20/18, 12/20/18, 2/7/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luevina Henry Pro Se

Defendant(s):

Real Time Resolutions Inc Represented By
Renee M Parker

THE BANK OF NEW YORK Represented By
Renee M Parker

Riverside County Sheriff Represented By
Ronak N Patel

Tavares Pro Se

Plaintiff(s):

Luevina Henry Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:16-14169 Sally Michelle Greene

Chapter 13

#2.00 Application for Compensation of Attorney for Debtor for Additional Fees & Related Expenses in a Pending Chapter 13 Case Subject to a Rights and Responsibilities Agreement (RARA) [11 U.S.C. §330(a)(4)(B); LBR 3015-1(v) (2)], Declaration of Attorney for Debtor in Support Thereof with proof of service for Sunita N Sood, Debtor's Attorney, Period: 6/29/2017 to 1/3/2019, Fee: \$1,300.00, Expenses: \$0.00

EH__

Docket 52

Tentative Ruling:

Having reviewed declaration of Debtor, the Court is inclined to APPROVE the application in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Sally Michelle Greene

Represented By
Sunita N Sood

Movant(s):

Sally Michelle Greene

Represented By
Sunita N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:17-11167 Victor Thomas Lawton

Chapter 13

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

Also #4

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Victor Thomas Lawton

Represented By
Norma Duenas

Movant(s):

Victor Thomas Lawton

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:17-11167 Victor Thomas Lawton

Chapter 13

#4.00 CONT Trustee's Motion to Dismiss Case

From: 2/28/19, 3/14/19

Also #3

EH__

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Victor Thomas Lawton

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:17-13239 Gerald Bauer

Chapter 13

#5.00 CONT Motion to vacate dismissal

From:3/14/19

EH__

Docket 43

Tentative Ruling:

3/14/19

BACKGROUND

On April 19, 2017, Gerald Bauer ("Debtor") filed a Chapter 13 voluntary petition. On June 13, 2017, Debtor's Chapter 13 plan was confirmed.

On December 13, 2018, Trustee filed a motion to dismiss for plan infeasibility. On January 31, 2019, the Court held a hearing on the matter, and continued Trustee's motion for one week for Debtor to lodge an order on his proposed plan modification. During that one-week period, Debtor did not lodge an order on the motion to modify plan, and no appearance was made on behalf of Debtor at the continued hearing. On February 7, 2019, the Court dismissed Debtor's case.

On February 8, 2019, Debtor filed a motion to vacate dismissal arguing that the case was dismissed due to attorney mistake. Among other things, Debtor's counsel states that he was informed by Trustee that the motion to dismiss would be withdrawn prior to the hearing. On February 11, 2019, Trustee filed comments indicating conditional approval. Trustee also states that the statement of Debtor's counsel that regarding withdrawal of the motion to dismiss "is not credible and makes no sense." [Dkt. No.

**United States Bankruptcy Court
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

CONT... Gerald Bauer
46, ¶ 1].

Chapter 13

DISCUSSION

Debtor relies on FED. R. CIV. P. Rule 60(b)(1), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, which allows for relief from an order based on "mistake, inadvertence, surprise, or excusable neglect."

The legal basis for Debtor's assertion that the dismissal order should be vacated is that Debtor's counsel inadvertently did not appear at the hearing due miscommunication with Trustee, an assertion which the Trustee states is not credible. Additionally, it is well established that "an attorney's ignorance and carelessness does not provide grounds for Rule 60(b) relief." *In re Mercado*, 144 B.R. 879, 886 (Bankr. C.D. Cal. 1992) (citing *Bershad v. McDonough*, 469 F.2d 1333, 1337 (7th Cir. 1972)). And the mere assertion that counsel did not fulfill its duties, but that such carelessness was inadvertent, is clearly inadequate to support Rule 60(b) relief. *See, e.g., In re ACME Motors, Inc.*, 125 B.R. 702, 703 (Bankr. D.R.I. 1991).

"Rule 60(b) relief is extraordinary." *Id.* Yet, in this court, a request for relief from a Chapter 13 dismissal order has become semi-ordinary. On occasion, the requests are legally sound. Here, however, the evidence provided simply indicates that Debtor's counsel did not attend the hearing for reasons that do not appear to be credible.

The Seventh Circuit has stated that:

[T]he clients are principals, the attorney is an agent, and under the law of agency the principal is bound by his chosen agent's deeds. The rule is that *all* of the attorney's misconduct (except in the cases where the act is outside the scope of employment or in cases of excusable neglect) becomes the problem of the client. A lawyer who inexcusably neglects his client's obligations does

**United States Bankruptcy Court
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Thursday, March 28, 2019

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11:00 AM

CONT...

Gerald Bauer

not present exceptional circumstances.

Chapter 13

Bakery Mach. & Fabrication, Inc. v. Traditional Baking, Inc., 570 F.3d 845, 848 (7th Cir. 2009). "Although attorney carelessness can [in certain circumstances] constitute 'excusable neglect' under Rule 60(b)(1), attorney inattentiveness to litigation is not excusable, no matter what the resulting consequences the attorney's somnolent behavior may have on a litigant." *Easley v. Kirmsee*, 382 F.3d 693, 698 (7th Cir. 2004) (collecting cases).

TENTATIVE RULING

The Court is inclined to GRANT the motion conditioned on compliance with the Trustee's conditions.

APPEARANCES REQUIRED. Daniel King to personally appear at the hearing.

Party Information

Debtor(s):

Gerald Bauer

Represented By
Daniel King

Movant(s):

Gerald Bauer

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-13793 Michael Moreno and Azucena Moreno

Chapter 13

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

EH__

Docket 47

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Moreno

Represented By
Andrew Nguyen

Joint Debtor(s):

Azucena Moreno

Represented By
Andrew Nguyen

Movant(s):

Michael Moreno

Represented By
Andrew Nguyen

Azucena Moreno

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-16811 Donna Roberto

Chapter 13

#7.00 CONT Motion RE: Objection to Claim Number 1 by Claimant Tyler & Bursch, LLP.

HOLDING DATE

From: 11/8/18, 11/29/18

Also #8

EH__

Docket 31

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Pro Se

Movant(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-16811 Donna Roberto

Chapter 13

#8.00 CONT Confirmation of Chapter 13 Plan

From: 10/25/18, 11/15/18, 11/29/18

Also #7

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-17003 Jose Gacho Ruidera, Jr. and Maria Genalyn Raneses

Chapter 13

#9.00 Motion to Disallow Claims Cach LLC

EH__

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Gacho Ruidera Jr.

Represented By
Dana Travis

Joint Debtor(s):

Maria Genalyn Raneses Ruidera

Represented By
Dana Travis

Movant(s):

Jose Gacho Ruidera Jr.

Represented By
Dana Travis

Maria Genalyn Raneses Ruidera

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-17556 Daniel Javier Garcia

Chapter 13

#10.00 CONT Confirmation of Chapter 13 Plan

From: 11/8/18, 1/17/19, 1/24/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Javier Garcia

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-18794 Roy Morales and Lalani Dee Morales

Chapter 13

#11.00 Motion RE: Objection to Claim Number 1 by Claimant Everest National Insurance Company

EH__

Docket 28

Tentative Ruling:

The Court is inclined to SUSTAIN the objection, disallowing Claim 1 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Roy Morales

Represented By
Robert W Ripley

Joint Debtor(s):

Lalani Dee Morales

Represented By
Robert W Ripley

Movant(s):

Roy Morales

Represented By
Robert W Ripley

Lalani Dee Morales

Represented By
Robert W Ripley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#12.00 CONT Motion Re: Objection to Claim Number 3 by Claimant IRS

From: 1/10/19, 2/7/19

Also #13

EH__

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Movant(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#13.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18, 1/10/19, 2/7/19

Also #12

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-19729 John R Saxton

Chapter 13

#14.00 CONT Confirmation of Chapter 13 Plan

From: 1/17/19, 3/21/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John R Saxton

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#15.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/7/19, 2/28/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-20070 Alexander J Perfinowicz and Ingeborg Maria Pefinowicz

Chapter 13

#16.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/28/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alexander J Perfinowicz

Represented By
Manfred Schroer

Joint Debtor(s):

Ingeborg Maria Pefinowicz

Represented By
Manfred Schroer

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-20200 Denise Cherie Darden

Chapter 13

#17.00 CONT Confirmation of Chapter 13 Plan

From: 2/7/19, 2/28/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denise Cherie Darden

Represented By
Julie Philippi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-20635 Luis Antonio Gaeta

Chapter 13

#18.00 CONT Confirmation of Chapter 13 Plan

From: 2/28/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Antonio Gaeta

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-20787 Terri Tavona Randolph

Chapter 13

#19.00 CONT Motion to Disallow Claims number 2

From: 3/14/19

Also #20

EH__

Docket 18

Tentative Ruling:

3/14/2019

BACKGROUND:

On December 28, 2019, Terry Randolph ("Debtor") filed a Chapter 13 voluntary petition. On January 3, 2019, CarMax Auto Finance ("Creditor") filed a proof of claim for a secured claim in the amount of \$30,730.76 ("Claim 2"). On February 7, 2019, Debtor filed an objection to Claim 2. Creditor argues that the collateral for Claim 2, a vehicle, was repossessed.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

CONT... **Terri Tavona Randolph**
upon a motion for relief. *Id.*

Chapter 13

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

Here, Debtor has not provided any evidence that the subject vehicle was repossessed. Debtor has provided a bankruptcy credit report which indicates that the claim was identified at \$20,284 on November 30, 2018. Given that the evidence submitted by Creditor appears to be a simple text file print-off, with limited information, and given that Creditor has failed to oppose the instant claim objection, which the Court deems consent to the relief requested pursuant to Local Rule 9013-(1)(h), the Court is inclined to accept Debtor's proposed reduction of the claim to \$20,284. On the current record, however, the Court has no evidentiary basis to determine that the collateral was repossessed and sold.

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CONT... Terri Tavona Randolph

Chapter 13

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection to the extent of decreasing Claim 2 to \$20,284 and otherwise OVERRULE the objection without prejudice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Terri Tavona Randolph

Represented By
Dana Travis

Movant(s):

Terri Tavona Randolph

Represented By
Dana Travis
Dana Travis
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-20787 Terri Tavona Randolph

Chapter 13

#20.00 CONT Confirmation of Chapter 13 Plan

From: 3/14/19

Also #19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Terri Tavona Randolph

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:18-20847 Erica Raquel Zavaleta

Chapter 13

#21.00 CONT Confirmation of Chapter 13 Plan

From: 3/14/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Erica Raquel Zavaleta

Represented By
William J Smyth
Stephen S Smyth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10024 James J. Ysais

Chapter 13

#22.00 CONT Confirmation of Chapter 13 Plan

From: 3/14/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James J. Ysais

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10052 Dwayne J. Williams and Dana S. Williams

Chapter 13

#23.00 CONT Confirmation of Chapter 13 Plan

From: 3/14/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dwayne J. Williams

Represented By
Michael Jay Berger

Joint Debtor(s):

Dana S. Williams

Represented By
Michael Jay Berger

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10084 Sandra Luz Torres

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sandra Luz Torres

Represented By
Jason B Cruz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10103 Jeffrey Allan Cohn

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey Allan Cohn

Represented By
Stephen L Burton

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-10138 Lisa J Mirabal

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lisa J Mirabal

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-10152 Miguel Camacho

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/28/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Camacho

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10155 Ida Mary Valencia

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 1/28/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ida Mary Valencia

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:19-10189 Theresa Ann Cesiro

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Theresa Ann Cesiro

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10216 Quynhgiao N Tran

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Quynhgiao N Tran

Represented By
Siamak E Nehoray

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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11:00 AM

6:19-10243 Claudia Elena Arevalos

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Claudia Elena Arevalos

Represented By
Robert L Firth

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10244 Vicki Ann Murray

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vicki Ann Murray

Represented By
Robert L Firth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:19-10245 Michelle Sanchez

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 1/29/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Sanchez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10273 Maisha Lenette Ghant-Elie

Chapter 13

#34.00 Motion for Setting Property Value

Also #35

EH__

Docket 17

Tentative Ruling:

3/28/19

BACKGROUND

On January 13, 2019, Maisha Ghant-Elie ("Debtor") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2013 Hyundai Sonata (the "Property"). Santander Consumer USA Inc. ("Creditor") holds a security interest in the Property. On February 1, 2019, Creditor filed a proof of claim in the amount of \$18,891.87, identifying \$8,950 as secured by the Property.

On February 18, 2019, Debtor filed a motion to value the Property. Debtor asserts that the Property should be valued at \$6,427.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See*

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CONT... Maisha Lenette Ghant-Elie

Chapter 13

In re Penrod, 636 F.3d 1175, 1177 (9th Cir. 2011).

Presently, the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Kelly Blue Book report identifying the private party values of the Dodge and the Ram. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

TENTATIVE RULING

The Court is inclined to CONTINUE the hearings for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
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11:00 AM

CONT... Maisha Lenette Ghant-Elie

Chapter 13

Debtor(s):

Maisha Lenette Ghant-Elie

Represented By
John F Brady

Movant(s):

Maisha Lenette Ghant-Elie

Represented By
John F Brady
John F Brady
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:19-10273 Maisha Lenette Ghant-Elie

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

Also #34

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maisha Lenette Ghant-Elie

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10276 Julie Michelle Tsosie

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Michelle Tsosie

Represented By
Alon Darvish

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10290 Miguel Jose Padilla, Jr. and Holly Lynn Padilla

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Jose Padilla Jr.

Represented By
Todd L Turoci

Joint Debtor(s):

Holly Lynn Padilla

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10297 Denise Ann Vargas

Chapter 7

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE CON VERTED TO CHAPTER 7 ON
2/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denise Ann Vargas

Represented By
Todd L Turoci

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10313 Silvia Guzman Carrete

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Silvia Guzman Carrete

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10318 Olivia Susana Norris

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/1/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Olivia Susana Norris

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10322 MARIA DEJESUS ROCHA BELTRAN

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 2/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

MARIA DEJESUS ROCHA

Represented By
Khushwant Sean Singh

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10323 Carlos Barron

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/8/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlos Barron

Represented By
Michael D Franco

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10330 Rachelle Valdepena-Luna

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rachelle Valdepena-Luna

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10367 Anna Laura Cabigting

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anna Laura Cabigting

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 28, 2019

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11:00 AM

6:19-10368 Elizabeth M. Laird

Chapter 13

#45.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/15/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elizabeth M. Laird

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-10370 Jorge Avendano Sosa

Chapter 13

#46.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Avendano Sosa

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10373 Luis Alex Perales

Chapter 13

#47.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Alex Perales

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10391 Joseph Antonio Alvarado, Jr. and Rachel Alvarado

Chapter 13

#48.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Antonio Alvarado Jr.

Represented By
Steven A Alpert

Joint Debtor(s):

Rachel Alvarado

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10401 Gail Nash

Chapter 13

#49.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gail Nash

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10411 Lawrence Barrell Hundley, III

Chapter 13

#50.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lawrence Barrell Hundley III

Represented By
Alon Darvish

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10442 Samantha Martinez

Chapter 7

#51.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
2/12/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Samantha Martinez

Represented By
Kevin T Simon

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10445 Abidan Aceves and Cindy Aceves

Chapter 13

#52.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Abidan Aceves

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Cindy Aceves

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10452 Charles Lee Dismukes

Chapter 13

#53.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Lee Dismukes

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-10453 James Ellsworth Fay and Betty Wing Crosbie

Chapter 13

#54.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Ellsworth Fay

Represented By
Nicholas M Wajda

Joint Debtor(s):

Betty Wing Crosbie

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-11794 Fernando Coronel and Maria Coronel

Chapter 13

#55.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 150 W. Highland Ave San Bernardino CA 92405

MOVANT: FERNANDO AND MARIA CORONEL

EH__

Docket 16

Tentative Ruling:

3/26/2019

The Court, having reviewed the motion, is inclined to DENY the motion for lack of cause shown and for the reasons stated in the opposition. The Court notes that the motion does not contain the level of detail and specificity required to meet the "clear and convincing" necessary to rebut the presumption of bad faith contained in 11 U.S.C. § 362(c)(3)(C). Specifically, the motion does not provide the Court with any detailed information which would enable the Court to assess the relevant changes in Debtor's financial situation. The Court further notes that while Debtors' previous case may have been dismissed due to a mistaken understanding of the necessary payments, Creditor obtained relief from stay before dismissal.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Fernando Coronel

Represented By
Raymond Perez

Joint Debtor(s):

Maria Coronel

Represented By
Raymond Perez

**United States Bankruptcy Court
Central District of California
Riverside
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11:00 AM

CONT... Fernando Coronel and Maria Coronel

Chapter 13

Movant(s):

Fernando Coronel

Represented By
Raymond Perez

Maria Coronel

Represented By
Raymond Perez

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-11911 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#56.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 18057 Longhorn Ln., Chino Hills, CA 91709

MOVANT: JORGE MANUEL AZMITIA & YOSHIKO AZMITIA

EH__

Docket 11

Tentative Ruling:

3/28/2019

The Court, having reviewed the motion, is inclined to DENY the motion for lack of cause shown. The Court notes that the motion does not contain the level of detail and specificity required to meet the "clear and convincing" necessary to rebut the presumption of bad faith contained in 11 U.S.C. § 362(c)(3)(C). Specifically, the motion does not provide the Court with any detailed information which would enable the Court to assess the relevant changes in Debtor's financial situation.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas M Wajda

Movant(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

CONT... Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

Yoshiko Azmitia

Represented By

Nicholas M Wajda

Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:00 AM

6:19-11963 Pamela M Bradford

Chapter 13

#57.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 5744 Alexandria Ave. Corona, CA 9288

MOVANT: PAMELA M. BRADFORD

EH__

Docket 10

Tentative Ruling:

3/28/2019

The Court having reviewed the motion, notice appearing proper and good cause appearing, the Court is inclined to GRANT the motion, IMPOSING the automatic stay as to U.S. Bank, N.A. as Legal Title Trustee for Truman 2016 SC6 Title Trust c/o Rushmore Loan Management Services and Secured Creditor Capital One Auto Finance.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Pamela M Bradford

Represented By
James D. Hornbuckle

Movant(s):

Pamela M Bradford

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:14-12971 Patrick Francis Westcott

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 158

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/8/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patrick Francis Westcott

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:14-13829 Alexis Justine Brooks

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 59

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
2/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alexis Justine Brooks

Represented By
Nima S Vokshori

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:14-23150 Vivian Munson

Chapter 13

#60.00 CONT Trustee's Motion to Dismiss Case

From: 7/23/18, 8/23/18, 10/25/18, 1/31/19, 2/28/19

EH__

Docket 218

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vivian Munson

Represented By
Amanda G Billyard
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:15-14501 Vonetta M Mays

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH ____

Docket 203

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vonetta M Mays

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:15-19804 Juan M Madueno Carrizoza

Chapter 13

#62.00 CONT Trustee's Motion to Dismiss Case re Delinquency

From: 2/28/19

EH__

Docket 76

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan M Madueno Carrizoza

Represented By
James Geoffrey Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:15-20023 Zachary Lee Nowak

Chapter 13

#63.00 Trustee's Motion to Dismiss Case

EH__

Docket 110

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zachary Lee Nowak

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:16-11872 Garan Bales

Chapter 13

#64.00 Trustee's Motion to Dismiss Case

EH__

Docket 134

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Garan Bales

Represented By
Amanda G Billyard
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:16-18430 Isaias Melo and Rosa Melo

Chapter 13

#65.00 Trustee's Motion to Dismiss Case

EH__

Docket 83

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/12/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Isaias Melo

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Rosa Melo

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:16-18990 John D Castro, Jr and Jennifer Manda Castro

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH ____

Docket 85

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John D Castro Jr

Represented By
Chris A Mullen

Joint Debtor(s):

Jennifer Manda Castro

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:17-10619 Scott Patrick Williams and Lisa Ann Williams

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH__

Docket 146

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Scott Patrick Williams

Represented By
Summer M Shaw
Jenny L Doling

Joint Debtor(s):

Lisa Ann Williams

Represented By
Summer M Shaw
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:17-11131 Bruce Howard Ruggles and Ann Marie Ruggles

Chapter 13

#68.00 CONT Trustee's Motion to Dismiss Case

From: 3/14/19

EH__

Docket 84

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Howard Ruggles

Represented By
John F Brady

Joint Debtor(s):

Ann Marie Ruggles

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:17-14292 Lubna Shiraz Ahmed

Chapter 13

#69.00 Trustee's Motion to Dismiss Case

EH__

Docket 80

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lubna Shiraz Ahmed

Represented By
Joshua L Sternberg

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:17-14777 Juanita Francis Casey

Chapter 13

#70.00 Trustee's Motion to Dismiss Case

EH ____

Docket 63

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juanita Francis Casey

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:17-15772 Annette Leshon Rudd

Chapter 13

#71.00 Trustee's Motion to Dismiss Case

EH__

Docket 56

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annette Leshon Rudd

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:17-17806 Gerald Curtis Collins and Valerie Cecelia Collins

Chapter 13

#72.00 Trustee's Motion to Dismiss Case

EH__

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gerald Curtis Collins

Represented By
M. Wayne Tucker

Joint Debtor(s):

Valerie Cecelia Collins

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:17-18720 Patricia Morales

Chapter 13

#73.00 Trustee's Motion to Dismiss Case

EH__

Docket 62

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Morales

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:17-19614 Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

#74.00 Trustee's Motion to Dismiss Case

EH__

Docket 77

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/14/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Joint Debtor(s):

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:18-10414 Leonel Villa and Lucila Pineda

Chapter 13

#75.00 Trustee's Motion to Dismiss Case

EH__

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Leonel Villa

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Lucila Pineda

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:18-10740 Karin Olaya

Chapter 13

#76.00 Trustee's Motion to Dismiss Case

EH__

Docket 73

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/19/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Karin Olaya

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:18-10940 Ruben L Benitez and Christina M Benitez

Chapter 13

#77.00 CONT Trustee's Motion to Dismiss Case

From: 2/28/19, 3/14/19

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ruben L Benitez

Represented By
Sundee M Teeple

Joint Debtor(s):

Christina M Benitez

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:18-11432 Armando Guzman

Chapter 13

#78.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Armando Guzman

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:18-12447 Justina Renteria

Chapter 13

#79.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Justina Renteria

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#80.00 CONT Trustee's Motion to Dismiss Case

From: 3/14/19

EH ____

Docket 33

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/19/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:18-15343 Jennifer Isabella Solares

Chapter 13

#81.00 Trustee's Motion to Dismiss Case

EH__

Docket 22

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Isabella Solares

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:18-16220 Paul Sheldon Kirkwood

Chapter 13

#82.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/12/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Sheldon Kirkwood

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:18-17597 David Meisland

Chapter 13

#83.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Meisland

Represented By
Nima S Vokshori

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, March 28, 2019

Hearing Room 303

11:01 AM

6:18-17676 Patricia Ellen Bond-Gomez

Chapter 13

#84.00 Trustee's Motion to Dismiss Case

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Ellen Bond-Gomez

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 4, 2019

Hearing Room 303

9:00 AM

6:19-11794 Fernando Coronel and Maria Coronel

Chapter 13

#1.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 150 W. Highland Ave San Bernardino CA 92405

MOVANT: FERNANDO AND MARIA CORONEL

From: 3/28/19

EH__

Docket 16

Party Information

Debtor(s):

Fernando Coronel

Represented By
Raymond Perez

Joint Debtor(s):

Maria Coronel

Represented By
Raymond Perez

Movant(s):

Fernando Coronel

Represented By
Raymond Perez

Maria Coronel

Represented By
Raymond Perez

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

10:00 AM

6:19-10782 Michael Christopher VonPoppen

Chapter 7

#1.00 Reaffirmation Agreement Between Debtor and Gateway One Lending & Finance, LLC re 2006 Dodge Charger

EH__

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Christopher VonPoppen

Represented By
Daniel King

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

10:00 AM

6:18-20741 Frank Stephan Trautmann and Jirapa Trautmann

Chapter 7

#2.00 Pro se Reaffirmation Agreement Between Debtor and Mechanics Bank re 2014 Chevrolet Silverado

EH__

Docket 20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Stephan Trautmann

Represented By
Daniel King

Joint Debtor(s):

Jirapa Trautmann

Represented By
Daniel King

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

10:00 AM

6:18-20539 Jimmie Dale Montezuma and Jovita Arzate Montezuma

Chapter 7

#3.00 Pro se Reaffirmation Agreement Between Debtor and Ally Bank re 2016 Chevrolet Silverado

Also #4 & #5

EH__

Docket 19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jimmie Dale Montezuma

Represented By
Michael E Clark

Joint Debtor(s):

Jovita Arzate Montezuma

Represented By
Michael E Clark

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

10:00 AM

6:18-20539 Jimmie Dale Montezuma and Jovita Arzate Montezuma

Chapter 7

#4.00 Pro se Reaffirmation Agreement Between Debtor and Inland Valley Federal Credit Union re Credit Card Amount \$4,170.12

Also #3 & #5

EH__

Docket 21

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jimmie Dale Montezuma

Represented By
Michael E Clark

Joint Debtor(s):

Jovita Arzate Montezuma

Represented By
Michael E Clark

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

10:00 AM

6:18-20539 Jimmie Dale Montezuma and Jovita Arzate Montezuma

Chapter 7

#5.00 Pro se Reaffirmation Agreement Between Debtor and Inland Valley Federal Credit Union re 2011 Cadillac

Also #3 & #4

EH__

Docket 23

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jimmie Dale Montezuma

Represented By
Michael E Clark

Joint Debtor(s):

Jovita Arzate Montezuma

Represented By
Michael E Clark

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

10:00 AM

6:18-20003 LC Stahl LLC

Chapter 11

#6.00 CONT Motion for Relief from Stay Automatic Stay Under 11 U.S.C. Section 362
(with supporting declarations) (Real Property)

MOVANT: LOAN FUNDER LLC, SERIES 1829

From: 2/26/19, 3/5/19

Also #7 - #9

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

Movant(s):

Loan Funder LLC, Series 1829

Represented By
Jeffrey N Brown

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

10:00 AM

6:18-20003 LC Stahl LLC

Chapter 11

#7.00 Motion RE: Objection to Claim by Claimant Loan Funder LLC

Also #6 - #9

EH__

Docket 74

Tentative Ruling:

4/10/2019

BACKGROUND:

On November 27, 2018, LC Stahl LLC ("Debtor") filed a Chapter 11 voluntary petition. On December 6, 2018, Debtor's case was dismissed for failure to file case commencement documents. On December 11, 2018, the dismissal order was vacated.

On December 17, 2018, the Court approved the application of Lauren Newman to appear *pro hac vice* on behalf of Loan Funder, LLC Series 1829 ("Creditor"). On February 27, 2019, the Court approved the application of Stuart Wald to serve as bankruptcy counsel for Debtor.

On March 15, 2019, Creditor filed a proof of claim for a secured claim in the amount of \$1,320,655.61 ("Claim 5"). Prior to Claim 5 even having been filed, Debtor filed a objection to Creditor's claim. Given that the claim objection was filed prematurely, the objection is deficient in several technical respects, including: (1) the claim objection does not list the claim number; (2) the claim objection was not served to the

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

10:00 AM

CONT... LC Stahl LLC

Chapter 11

address specified in Claim 5; and (3) while the claim objection was set for hearing on thirty days' notice, only twenty-six days have passed since Claim 5 was even filed. Nevertheless, on March 27, 2019, Creditor filed its opposition.

The primary basis of Debtor's objection is that the underlying note is usurious and, therefore, all interest charged by Creditor should be disallowed. Creditor's opposition asserts that New York law is the governing law and that the note underlying Claim 5 is not usurious under New York law.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re*

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

10:00 AM

CONT... LC Stahl LLC

Chapter 11

Allegheny Int'l, Inc., 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (quoting *Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; see also *Holm*, 931 F.2d at 623.

ANALYSIS:

I. Usury

"In a bankruptcy case, the court must apply federal choice of law rules. Federal choice of law rules follow the approach of the Restatement (Second) of Conflict of Laws." *In re Vortex Fishing Sys., Inc.*, 277 F.3d 1057, 1069 (9th Cir. 2002). The Restatement (Second) of Conflict of Laws (the "Restatement") § 187 provides that the contractual choice of law provision is effective unless either one of two conditions are met:

- (a) the chosen state has no substantial relationship to the parties or the transaction and there is no other reasonable basis for the parties' choice, or
- (b) application of the law of the chosen state would be contrary to a fundamental policy of a state which has a materially greater interest than the chosen state in the determination of the particular issue and which, under the rule of § 188, would be the state of the applicable law in the absence of an effective choice of law by the parties.

Here, section 7.12 of the loan agreement identifies New York law as the governing law. Because the loan agreement identifies Creditor's principal place of business as

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being in New York, it would appear New York has a substantial relationship to Creditor, satisfying subsection (a). *See, e.g.*, the Restatement, cmt. f. ("When the state of the chosen law has some substantial relationship to the parties or the contract, the parties will be held to have had a reasonable basis for their choice. This will be the case, for example, when this state is that where performance by one of the parties is to take place or where one of the parties is domiciled or has his principal place of business.").

The application of subsection (b), however, is less clear, but it does not appear to compel the choice of California law. First, it is uncertain whether California would be the "state of applicable law under the rule of § 188." The Restatement (Second) of Conflict of Laws § 188(3) provides a default rule: "If the place of negotiating the contract and the place of performance are in the same state, the local law of this state will usually be applied." This default rule, to some extent, is subject to § 188(2), which enumerates five factors for the Court to consider when determining the contract's contacts with specific states: (1) the place of contracting; (2) the place of negotiation of the contract; (3) the place of performance; (4) the location of the subject matter of the contract; and (5) the domicile, residence, nationality, place of incorporation, and place of business of the parties. Section 7.13 of the loan agreement evidences the parties' agreement that the agreement was negotiated and formed in New York, and that performance would occur in New York. Therefore, section 188(3) would create a presumption that the law applicable in the absence of an effective choice by the parties would be the law of New York; it is not clear that the factors enumerated in § 188(2) compel a different result.

Second, even if California were properly to provide the applicable law under Restatement § 188, this Court cannot conclude that California has a "materially greater interest" than New York in the resolution of this issue. For instance, in *Shannon-Vail Five, Inc. v. Busch*, 270 F.3d 1207 (9th Cir. 2001), the Ninth Circuit upheld the contractual choice of the law of Nevada – where there was no usury law in place – despite the plaintiff-borrowers being residents of California, and taking out loans for development of real estate located in California. While in *Shannon-Vail Five*, the defendants were citizens of Nevada, and, in this case, Creditor is

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incorporated in Delaware, with a principal place of business in New York, the effective interest in *Shannon-Vail Five* was more than double the effective interest rate here. *See id.* Reviewing the four applicable Restatement provisions -- §§ 187, 188, 195, and 203 – the Ninth Circuit concluded that "the invalidating power of the 'unless' clause of § 195 should thus be limited to situations where the location of repayment is selected solely to circumvent a state's usury laws, or when the place of repayment otherwise has a very tangential relationship to the contract." The Ninth Circuit also rejected the contention that California's fundamental policy against usury should invalidate the choice of law provision: "But the lack of a usury law does not mean that Nevada has a less substantial concern than California about interest rates; rather, it appears to reflect a choice to favor individual contract decisions and the free flow of capital."

Debtor has not provided legal argumentation sufficient to distinguish the Ninth Circuit's approach in *Shannon-Vail Five*; indeed, the only two cases cited by Debtor are cases where the contractual choice of law provision was upheld. Given the relative similarity between the facts of this case and the facts of *Shannon-Vail Five*, and the high showing necessary to invalidate a contractual choice of law provision under the Ninth Circuit precedent and the Restatement, the Court is inclined to conclude that New York law applies to determine whether the instant contract is usurious.

Applying New York law, Creditor argues that N.Y. GEN. OBLIG. LAW § 1104 precludes a limited liability company from raising a usury defense. Notwithstanding Creditor's inaccurate statutory citation, it does appear that such a restriction is contained in N.Y. LTD. LIAB. CO. LAW § 1104(a). N.Y. LTD. LIAB. CO. LAW § 1104(b), does, however, provides an exception:

The provisions of subdivision (a) of this section shall not apply to a domestic or foreign limited liability company, the principal asset of which is the ownership of a one or two family dwelling, where it appears either that such limited liability company was formed, or that the controlling interest therein was acquired, within a period of six months prior to the execution by such limited liability company of a bond or a note evidencing indebtedness, and a mortgage creating a lien for such

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indebtedness on such one or two family dwelling.

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While it is not clear, it does not appear that this exception is applicable to the instant situation. Similarly, while N.Y. GEN. OBLIG. LAW § 5-501(6)(a) provides that usury only has limited applications to loans of \$250,000 or more, there is also an exception for loans secured by a family residence.

More importantly, Creditor also argues that, under New York law, usury laws do not apply to defaulted obligations. *See, e.g., Urban Commc'n PCS Ltd. P'ship v. Gabriel Capital, L.P.*, 394 B.R. 325, 341 (S.D.N.Y. 2008). The Court agrees with this contention. Therefore, if the contractual rate of interest was below the threshold for usury, but the defaulted rate of interest exceeds the threshold for usury, then a defense of usury is unavailable. None of the declarations or briefs actually contain a statement of the contractual rate of interest. A review of the exhibits attached to the declaration of Maskim Stavinsky makes clear that the contractual rate of interest was 10%. Debtor has argued that the effective interest rate, once certain fees are added, was approximately 13%. Either way, the New York threshold for usury is 16%. *See* N.Y. GEN. OBLIG. LAW § 5-501. Therefore, under New York law, the note securing Claim 5 is not usurious.

TENTATIVE RULING

Because the effective rate of interest was not usurious under New York law, and because an increased interest rate triggered by a default cannot render a loan agreement usurious, the Court is inclined to OVERRULE the objection.

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

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Movant(s):

LC Stahl LLC

Represented By
Stuart J Wald

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6:18-20003 LC Stahl LLC

Chapter 11

#8.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report
(HOLDING DATE)

From: 1/8/19, 2/26/19, 3/5/19

Also #6 - #9

EH ____

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

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6:18-20003 LC Stahl LLC

Chapter 11

#9.00 Motion to Approve Compromise Under Rule 9019

Also #6 - #8

EH__

Docket 70

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

Movant(s):

LC Stahl LLC

Represented By
Stuart J Wald

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6:18-17431 James Michael Gorman

Chapter 7

#10.00 Motion for extension of time to file a complaint objecting to discharge

EH__

Docket 19

Tentative Ruling:

4/10/2019

BACKGROUND

On August 31, 2018, James Gorman ("Debtor") filed a Chapter 7 voluntary petition. The meeting of creditors was originally set for October 3, 2018. On November 30, 2018, UST filed a motion for an extension of time to file a complaint objecting to discharge. On February 1, 2019, the Court entered an order granting the motion and extending the deadline to object to discharge until February 28, 2019.

On February 27, 2019, UST filed another motion for an extension of time to file a complaint objecting to discharge. UST asserts that Debtor has connections to several business entities which were involved in prepetition litigation, and that in such litigation, judgment creditors raised allegations that Debtor had concealed assets and engaged in other sanctionable conduct. UST further asserts that Debtor has not cooperated fully with UST's requests for financial records despite repeated contact from UST's office.

DISCUSSION

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FED. R. BANKR. P. Rule 4004(a) states:

- (1) In a chapter 7 case, a complaint, or a motion under § 727(a)(8) or (9) of the Code, objecting to the debtor's discharge shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). In a chapter 11 case, the complaint shall be filed no later than the first date set for the hearing on confirmation. In a chapter 13 case, a motion objecting to the debtor's discharge under § 1328(f) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). At least 28 days' notice of the time so fixed shall be given to the United States trustee and all creditors as provided in Rule 2002(f) and (k) and to the trustee and the trustee's attorney.

And FED. R. BANKR. P. Rule 4004(b) states:

- (1) On motion of any party in interest, after notice and hearing, the court may for cause extend the time to object to discharge. Except as provided in subdivision (b)(2), the motion shall be filed before the time has expired.
- (2) A motion to extent the time to object to discharge may be filed after the time for objection has expired and before discharge is granted if (A) the objection is based on facts that, if learned after the discharge, would provide a basis for revocation under § 727(d) of the Code, and (B) the movant did not have knowledge of those facts in time to permit an objection. The motion shall be filed promptly after the movant discovers the facts on which the objection is based.

Here, the delay in providing information necessary to assess the financial circumstances and prepetition conduct of Debtor constitutes sufficient cause to extend the deadline. *See* COLLIER ON BANKRUPTCY ¶ 4004.03[2] (16th ed. 2013) ("A debtor's delays in responding to discovery may be sufficient cause. Obviously, a delay in the meeting of creditors to a date close to or after the deadline may constitute such cause.") (*citing In re McCormack*, 244 B.R. 203 (Bankr. D. Conn. 2000)).

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Moreover, Debtor's failure to oppose may be deemed consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to GRANT the motion and EXTEND the deadline to file an objection to discharge until May 31, 2019.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

James Michael Gorman

Represented By
Timothy W Combs

Movant(s):

United States Trustee (RS)

Represented By
Everett L Green

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#11.00 CONT Application to Employ BHHS Perrie Mundy Realty Group as Real Estate Broker / Agent Declaration of Perrie Mundy in support

From: 1/30/19

Also #12 & #13

EH__

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

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6:18-17177 Julie Lynn Salazar

Chapter 7

#12.00 CONT Motion for Objection to Claim of Exemptions by Debtor, Julie Lynn Salazar

From: 1/16/19, 1/30/19

Also #11 & #13

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

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6:18-17177 Julie Lynn Salazar

Chapter 7

#13.00 CONT Motion by Chapter 7 Trustee for Order Approving Equity Buy Back Agreement

From: 12/5/18, 1/30/19

Also #11 & #12

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

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6:18-17177 Julie Lynn Salazar

Chapter 7

Adv#: 6:18-01231 Winegardner Masonry, Inc. v. Salazar

#14.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01231. Complaint by Winegardner Masonry, Inc. against Julie Lynn Salazar. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(41 (Objection / revocation of discharge - 727(c),(d),(e)))

From: 1/30/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Defendant(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Plaintiff(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

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6:18-12625 Harold Roy Williams and Alice Gwendolyn Williams

Chapter 7

#15.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 34

Tentative Ruling:

4/10/2019

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 625.00
Trustee Expenses: \$ 150.74

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Harold Roy Williams

Represented By
Jacqueline D Serrao

Joint Debtor(s):

Alice Gwendolyn Williams

Represented By
Jacqueline D Serrao

Trustee(s):

Robert Whitmore (TR)

Pro Se

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6:17-19155 William Reid Anderson

Chapter 7

#16.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 36

Tentative Ruling:

4/10/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,293.97
Trustee Expenses: \$ 107.35

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

William Reid Anderson

Represented By
C Scott Rudibaugh

Trustee(s):

Lynda T. Bui (TR)

Pro Se

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6:10-11814 Scott Leon Bosco and Karen Lee Bosco

Chapter 7

#17.00 CONT Notice of Trustee's Final Report and Applications for Compensation

From: 12/5/18, 12/11/18, 2/6/19

EH__

Docket 41

Tentative Ruling:

12/11/2018

No opposition has been filed.
Service was Proper.

11 U.S.C. § 326(a) states:

In a case under chapter 7 or 11, the court may allow reasonable compensation under section 330 of this title of the trustee for the trustee's services, payable after the trustee renders such services, not to exceed 25 percent on the first \$5,000 or less, 10 percent on any amount in excess of \$5,000 but not in excess of \$50,000, 5 percent on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3 percent of any moneys in excess of \$1,000,000, upon all *moneys disbursed or turned over in the case by the trustee* to parties in interest, excluding the debtor, but including holders of secured claims.

(emphasis added).

Trustee is basing his requested compensation in this case on \$185,000 in "receipts," but that amount includes \$72,908.11 paid to Aylstock, Witkin, Kreis & Overholtz, PLLC which does not appear properly categorized as a receipt because these moneys were not, at any time, held or administered by Trustee, let alone received by Trustee, or disbursed by Trustee. Specifically, paragraph 8 of the motion to approve settlement [Dkt. No. 2] indicates that the costs and expenses of certain status litigation were to be paid directly by the settlement fund trustee, and only the remaining funds would

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actually be received by the Chapter 7 Trustee. To wit:

Subject to the terms of the settlement being satisfied, the balance of the remaining settlement proceeds, after the Settlement Fund Trustee pays and/or withholds the necessary expenses, fees, costs, holdbacks, and deductions from the Gross Settlement Amount, anticipated to be in the amount of \$97,897.75 (the "Remaining Proceeds") shall be disbursed from the Settlement Fund Trustee to the Trustee.

Not only are the requested fees simply incompatible with the plain language of the statute, which calculates fees based on moneys disbursed or turned over by the trustee, the fees cannot be reasonably justified on policy grounds. In this case, the state court counsel incurred significant legal fees litigating a state court matter while the instant bankruptcy was closed. The state court counsel's work on this matter was, in no matter whatsoever, related to the administration of the bankruptcy estate, and Trustee did not participate in, direct, or even have an awareness of the fees incurred. Case law notes that important distinction:

The reported decisions construing section 326(a) have recognized a distinction between funds that are constructively received and funds that are actually received. These cases stand for the proposition that a commission can only be calculated upon the funds actually received by the trustee. In this particular case, the trustee never received any settlement proceeds that were paid directly to the debtor's personal injury counsel in fees and expenses or to the worker's compensation carrier.

In re Guido, 237 B.R. 562, 564-65 (Bankr. E.D.N.Y. 1999) (citations omitted); *see also Kandel v. Alexander Leasing Corp.*, 107 B.R. 548 (N.D. Ohio 1988) (proceeds of settlement were not "money disbursed" where the trustee cannot point to any time at which the moneys actually passed through his hands); *In re New England Fish Co.*, 34 B.R. 899, 902 (Bankr. W.D. Wash. 1983) ("[I]n view of the majority of the cases under prior law and the plain and unambiguous wording of section 326(a), this Court concludes that the trustee's compensation must be based on actual monies disbursed

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to parties in interest, and not on assets or settlements which can be construed as a constructive disbursement.").

In light of the foregoing, the Court is inclined to reduce the basis upon which Trustee's statutory fee is calculated, eliminating those amounts which were at no time administered, held, received, or disbursed by Trustee. The remaining cognizable disbursements appear to be a bank service fee of \$117.34, Trustee's expenses in the amount of \$778.22, and payments to creditors in the amount of \$4,027.61, for an aggregate amount of \$4,923.17. Therefore, the Court is inclined to approve Trustee's fees in the reduced amount of \$1,230.79. The Court has reviewed the itemized expenses filed by Trustee, and finding them reasonable, the Court is inclined to approve the expenses in the amount of \$778.22

APPEARANCES REQUIRED. If Applicant submits on the tentative, Applicant's appearance is waived.

Party Information

Debtor(s):

Scott Leon Bosco

Represented By
Richard H Travis
Dana Travis

Joint Debtor(s):

Karen Lee Bosco

Represented By
Richard H Travis
Dana Travis

Trustee(s):

Robert Whitmore (TR)

Represented By
Justin Witkin

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

#18.00 Hearing RE: [426] Declaration of Steven F. Werth Regarding Emergency
EH__

Docket 426

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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11:00 AM

6:09-37653 Debi Jo Killian

Chapter 7

#19.00 CONT Motion for Order Confirming Personal Injury Award is Exempt and Not Part of Bankruptcy Estate

From: 1/9/19

EH ____

Docket 21

***** VACATED *** REASON: CONTINUED TO 6/5/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Debi Jo Killian

Represented By
Gregory J Doan
Michael H Raichelson

Movant(s):

Debi Jo Killian

Represented By
Gregory J Doan
Michael H Raichelson

Trustee(s):

John P Pringle (TR)

Represented By
Michelle A Marchisotto

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2:00 PM

6:18-20477 Connie Gutierrez

Chapter 7

Adv#: 6:19-01028 Whitmore v. Gutierrez et al

#20.00 Status Conference RE: [1] Adversary case 6:19-ap-01028. Complaint by Robert S. Whitmore against Daniel Gutierrez, Toby Gutierrez. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons and Notice of Status Conference) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))
(Main case dismissed 4/1/19)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Connie Gutierrez

Represented By
Keith Q Nguyen

Defendant(s):

Daniel Gutierrez

Represented By
Lane K Bogard

Toby Gutierrez

Pro Se

Plaintiff(s):

Robert S. Whitmore

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

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6:18-17730 Sally Jeanne Way

Chapter 7

Adv#: 6:18-01238 Daff, Chapter 7 Trustee v. Alohrav Studios, Inc., a Delaware corporation

#21.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01238. Complaint by Charles W. Daff, Chapter 7 Trustee against Alohrav Studios, Inc., a Delaware corporation. (Charge To Estate). Verified Complaint for: 1) Quiet Title; 2) Cancellation of Instrument; and 3) Declaratory Relief Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

From: 2/6/19, 3/13/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/10/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sally Jeanne Way

Represented By
Summer M Shaw

Defendant(s):

Alohrav Studios, Inc., a Delaware

Pro Se

Plaintiff(s):

Charles W. Daff, Chapter 7 Trustee

Represented By
Brandon J Iskander

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Brandon J Iskander

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6:18-12282 Frank Javier Valderrama

Chapter 7

Adv#: 6:18-01141 Carrillo v. Valderrama

#22.00 Status Conference RE: [36] Amended Complaint THIRD by John F Bazan on behalf of Jose Carrillo against Jose Carrillo. (Bazan, John)

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Defendant(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Plaintiff(s):

Jose Carrillo

Represented By
John F Bazan

Trustee(s):

Steven M Speier (TR)

Pro Se

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Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:18-12027 Richard M. Thomas

Chapter 7

Adv#: 6:18-01156 Anderson, Chapter 7 Trustee v. Williams et al

#23.00 CONT Motion for Default Judgment Against Defendants Amy Williams and Richard M. Thomas, Jr

From: 11/7/18, 12/12/18, 1/30/19, 2/27/19

Also #24

EH__

Docket 13

Tentative Ruling:

Given the Court's ruling on the MSA, the MDJ is conditionally moot as to Defendant Amy. As to Richard Jr., the motion was served on Richard Jr. at the Property. The motion for default judgment, however, contends that Richard Jr. does not have any equitable ownership in the Property. While residency is not clear from the motion, the motion specifically states "[t]he Trustee believes that Defendant Thomas is not currently residing in the Subject Property." The Court also notes that at various points in the motion, Trustee has confused the identity of Richard III and Richard Jr. For instance, paragraph 2 of the declaration states: "The debtor Richard M. Thomas aka Richard M. Thomas, Jr. initiated this Bankruptcy case by filing a voluntary petition" when, in fact, it was Richard III, not Richard Jr., who filed bankruptcy. Given this apparent confusion, and Trustee's explicit contention that Richard Jr. is not residing at the Property, the Court will require further service on Richard Jr. or clear evidence establishing that service was proper.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

CONT... Richard M. Thomas

Chapter 7

Defendant(s):

Amy Williams

Represented By
Anerio V Altman

Richard M Thomas Jr.

Pro Se

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

Movant(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:18-12027 Richard M. Thomas

Chapter 7

Adv#: 6:18-01156 Anderson, Chapter 7 Trustee v. Williams et al

#24.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01156. Complaint by Karl T. Anderson, Chapter 7 Trustee against Amy Williams, Richard M Thomas Jr.. (Charge To Estate) (\$350.00). Complaint to: (1) Avoid and Recover Fraudulent Transfer; (2) Obtain Declaratory Relief as to Ownership of Real Property; and (3) Authorize Sale of Property Owned in Part by Non-Debtor Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

From: 9/26/18, 11/7/18, 12/12/18, 1/30/19, 2/27/19

Also #23

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

Defendant(s):

Amy Williams

Represented By
Anerio V Altman

Richard M Thomas Jr.

Pro Se

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

CONT... Richard M. Thomas

Chapter 7

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:16-15813 John E. Tackett

Chapter 7

Adv#: 6:18-01138 Speier v. Conestoga Settlement Services, LLC et al

#25.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01138. Complaint by Steven M Speier against Conestoga Settlement Services, LLC, Conestoga International Holdings, LLC, Conestoga Trust, Provident Trust Group, LLC, De Leon & Washburh, P.C., Thomas Washburn, Hector De Leon, Jeff Converse, Michael Woods, Michael McDermott. (Charge To Estate). Complaint for: (1) Breach of Written Contract; (2) Rescission and Restitution for Fraud; (3) Money Had and Received; (4) Unjust Enrichment; (5) Fraud; (6) Negligent Representation; (7) Negligence; (8) Rescission and Restitution for Sale of Unqualified Securities [Cal. Corp. §25503]; (9) Damages for Sale of Unqualified Securities [Cal. Corp. §25503]; (10) Rescission: Securities: Misrepresentation [Cal. Corp. §25501]; (11) Damages: Securities: Misrepresentation [Cal. Corp. § 25501]; (12) Contempt for Willful Violation of Automatic Stay Pursuant to 11 U.S.C. § 105; and (13) Elder Financial Abuse [Cal. Welf. & Inst. Code § 15600 et seq.] Nature of Suit: (14 (Recovery of money/property - other)) (Eastmond, Thomas)

From: 8/29/18, 11/28/18, 1/9/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John E. Tackett

Represented By
Stefan R Pancer

Defendant(s):

Conestoga Settlement Services, LLC

Represented By
Charles Miller

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

CONT... John E. Tackett Chapter 7

Conestoga International Holdings,	Represented By Charles Miller
Conestoga Trust	Represented By Charles Miller
Provident Trust Group, LLC	Represented By Marshall J Hogan
De Leon & Washburh, P.C.	Represented By Jasmin Yang David D Samani
Thomas Washburn	Represented By Jasmin Yang David D Samani
Hector De Leon	Represented By Jasmin Yang David D Samani
Jeff Converse	Pro Se
Michael Woods	Pro Se
Michael McDermott	Pro Se

Joint Debtor(s):

Ellen O. Tackett	Represented By Stefan R Pancer
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Plaintiff(s):

Steven M Speier	Represented By Thomas J Eastmond Robert P Goe
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Trustee(s):

Steven M Speier (TR)	Represented By Robert P Goe Thomas J Eastmond
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:17-15816 Integrated Wealth Management Inc

Chapter 11

#26.00 CONT Post Confirmation Status Conference

From: 10/23/18

EH__

Docket 277

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Integrated Wealth Management Inc

Represented By
Andrew B Levin
Robert E Opera
Jim D Bauch

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

#27.00 CONT First Omnibus Objection of Debtor-In-Possession Allied Injury Management, Inc. Seeking Disallowance of Certain Proofs of Claim
(Holding Date)

From: 11/8/16, 12/6/16, 1/10/17, 3/7/17,4/4/17, 4/25/17, 6/27/17, 7/11/17, 9/12/17, 11/14/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19

Also #28

EH__

Docket 83

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Movant(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

#28.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 6/7/16, 8/30/16, 9/14/16, 10/20/16, 10/25/16, 12/6/16, 1/10/17, 2/28/17, 3/28/17, 5/30/17, 8/29/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19

Also #27

EH__

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:16-01225 Cambridge Medical Funding Group II, LLC v. Allied Injury Management,

#29.00 CONT Status Conference Re: Complaint by Cambridge Medical Funding Group II, LLC against Allied Injury Management, Inc., John C. Larson. 02 - Other e.g. other actions that would have been brought in state court if unrelated to bankruptcy

HOLDING DATE

From: 11/1/16, 12/6/16, 1/31/17, 2/28/17, 3/28/17, 5/30/17, 8/29/17, 10/3/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

John C. Larson

Pro Se

Plaintiff(s):

Cambridge Medical Funding Group

Represented By
Kenneth Hennesay

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

CONT...

Allied Injury Management, Inc.

Jason Balitzer
Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:16-01279 Allied Injury Management, Inc. v. One Stop Multi-Specialty Medical Group

#30.00 CONT Status Conference RE: [1] Adversary case 6:16-ap-01279. Complaint by Allied Injury Management, Inc. against One Stop Multi-Specialty Medical Group & Therapy, Inc., One Stop Multi-Specialty Medical Group, Inc., Nor Cal Pain Management Medical Group, Inc.. (Charge To Estate). Complaint for (1) Breach of Contract; (2) Account Stated; and (3) Unjust Enrichment Nature of Suit: (14 (Recovery of money/property - other))

From: 1/24/17, 3/7/17, 4/25/17, 6/27/17, 7/11/17, 9/12/17, 11/14/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

One Stop Multi-Specialty Medical

Represented By
Maria K Pum
Maria C Armenta

One Stop Multi-Specialty Medical

Represented By
Maria K Pum
Maria C Armenta

Nor Cal Pain Management Medical

Represented By
Maria K Pum
Maria C Armenta

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Plaintiff(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01109 David M. Goodrich, Chapter 11 Trustee v. Titanium Resource Company,

#31.00 CONT Status Conference Re: Complaint by David M. Goodrich, Chapter 11 Trustee against Titanium Resource Company, Inc., a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers and Adversary Proceeding Cover Sheet Nature of Suit: 12 - Recovery of money/property - 547 - preference,13 Recovery of money/property - 548 fraudulent transfer

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Titanium Resource Company, Inc., a

Represented By
Alan W Forsley

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01110 David M. Goodrich, Chapter 11 Trustee v. Larson, D.C., an individual

#32.00 CONT Status Conference Re: Complaint by David M. Goodrich, Chapter 11 Trustee against John Larson, D.C., an individual. (Charge To Estate). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers, Avoidance of Improper Distributions, and Unjust Enrichment and Adversary Proceeding Cover Sheet Nature of Suit: 12 - Recovery of money/property - 547 preference, 13- Recovery of money/property - 548 fraudulent transfer

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

John Larson, D.C., an individual

Represented By
Alan W Forsley

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01113 David M. Goodrich, Chapter 11 Trustee v. Netrova, Inc., a California

#33.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01113. Complaint by David M. Goodrich, Chapter 11 Trustee against Netrova, Inc., a California corporation. (Charge To Estate). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Werth, Steven)

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Netreva, Inc., a California

Represented By
Lazaro E Fernandez

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01111 David M. Goodrich, Chapter 11 Trustee v. American Express Company, a

#34.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01111. Complaint by David M. Goodrich, Chapter 11 Trustee against American Express Company, a New York Corporation dba American Express, American Express Travel Related Services, Inc., a New York corporation dba American Express. (Charge To Estate). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19

Also #35

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Mark S Horoupian

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01111 David M. Goodrich, Chapter 11 Trustee v. American Express Company, a

#35.00 CONT Status Conference RE: **3rd Party Complaint** [4] Answer to Complaint and Affirmative Defenses to Plaintiff's Complaint, and Third-Party Claim Against John C. Larson, Third-Party Complaint by American Express Company, a New York Corporation dba American Express, American Express Travel Related Services, Inc., a New York corporation dba American Express against John C. Larson

From: 8/21/18, 10/30/18, 1/15/19

Also #34

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth
Mark S Horoupian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 10, 2019

Hearing Room 303

2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:13-18779 Rigoberto Baez

Chapter 13

#1.00 CONT Motion For Order Denying Discharge Or Dismissing Case

From: 1/31/19, 2/28/19, 3/14/19

EH__

Docket 172

Party Information

Debtor(s):

Rigoberto Baez

Represented By
Michael Smith
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:15-20006 Carl J Charlot and Jacinta S Charlot

Chapter 13

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

EH__

Docket 84

Party Information

Debtor(s):

Carl J Charlot

Represented By
Michael A Younge

Joint Debtor(s):

Jacinta S Charlot

Represented By
Michael A Younge

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:17-12118 Veronica A Mendoza

Chapter 13

#3.00 Application for Compensation for Stephen S Smyth, Debtor's Attorney, Period: 1/11/2019 to 2/4/2019, Fee: \$350.00, Expenses: \$0.00.

EH__

Docket 64

Party Information

Debtor(s):

Veronica A Mendoza

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Veronica A Mendoza

Represented By
Stephen S Smyth
William J Smyth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:17-19614 Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

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

EH__

Docket 67

Party Information

Debtor(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Joint Debtor(s):

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Movant(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-10940 Ruben L Benitez and Christina M Benitez

Chapter 13

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

Also #6

EH__

Docket 41

Party Information

Debtor(s):

Ruben L Benitez

Represented By
Sundee M Teeple

Joint Debtor(s):

Christina M Benitez

Represented By
Sundee M Teeple

Movant(s):

Ruben L Benitez

Represented By
Sundee M Teeple
Sundee M Teeple
Sundee M Teeple

Christina M Benitez

Represented By
Sundee M Teeple
Sundee M Teeple
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-10940 Ruben L Benitez and Christina M Benitez

Chapter 13

#6.00 CONT Trustee's Motion to Dismiss Case

From: 2/28/19, 3/14/19, 3/29/19

Also #5

EH__

Docket 38

Party Information

Debtor(s):

Ruben L Benitez

Represented By
Sundee M Teeple

Joint Debtor(s):

Christina M Benitez

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-13481 Rorye James Mosley, Sr.

Chapter 13

#7.00 CONT Motion to Reconsider (related documents 30 Motion for Relief from Stay - Real Property)

From: 3/14/19

EH__

Docket 44

*** VACATED *** REASON: ORDER ENTERED 3/22/19

Party Information

Debtor(s):

Rorye James Mosley Sr.

Represented By
Brian J Soo-Hoo

Movant(s):

Rorye James Mosley Sr.

Represented By
Brian J Soo-Hoo
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-13793 Michael Moreno and Azucena Moreno

Chapter 13

#8.00 CONT Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments

From: 3/28/19

EH__

Docket 47

Party Information

Debtor(s):

Michael Moreno

Represented By
Andrew Nguyen

Joint Debtor(s):

Azucena Moreno

Represented By
Andrew Nguyen

Movant(s):

Michael Moreno

Represented By
Andrew Nguyen

Azucena Moreno

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-15766 Deborah A Neville and Ronnie L Neville

Chapter 13

#9.00 Stipulation regarding modifying plan

EH__

Docket 63

Party Information

Debtor(s):

Deborah A Neville

Represented By
Hayk Grigoryan

Joint Debtor(s):

Ronnie L Neville

Represented By
Hayk Grigoryan

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-18551 Robert Heck

Chapter 13

#10.00 Motion to vacate dismissal

EH__

Docket 45

Party Information

Debtor(s):

Robert Heck

Represented By
John M Boyko

Movant(s):

Robert Heck

Represented By
John M Boyko
John M Boyko

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#11.00 CONT Motion Re: Objection to Claim Number 3 by Claimant IRS

From: 1/10/19, 2/7/19, 3/28/19

Also #12

EH__

Docket 28

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Movant(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#12.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18, 1/10/19, 2/7/19, 3/28/19

Also #11

EH __

Docket 0

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-19196 Sheila Rosales Manabat

Chapter 13

#13.00 CONT Confirmation of Chapter 13 Plan

From: 1/10/19, 2/28/19

EH __

Docket 0

Party Information

Debtor(s):

Sheila Rosales Manabat

Represented By
John A Varley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-19494 Rachel Ann Sullivan

Chapter 13

#14.00 Motion RE: Objection to Claim Number 3 by Claimant CACH, LLC

EH__

Docket 25

Party Information

Debtor(s):

Rachel Ann Sullivan

Represented By
Chris A Mullen

Movant(s):

Rachel Ann Sullivan

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#15.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/7/19, 2/28/19, 3/28/19

EH __

Docket 0

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-20238 Efrain Padron

Chapter 13

#16.00 Motion to strike

Also #17 & #18

EH__

Docket 39

Party Information

Debtor(s):

Efrain Padron

Represented By
Patricia A Mireles

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-20238 Efrain Padron

Chapter 13

#17.00 Motion To Disgorge Compensation Pursuant To 11 U.S.C. § 329

Also #16 & #18

EH__

Docket 40

Party Information

Debtor(s):

Efrain Padron

Represented By
Patricia A Mireles

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-20238 Efrain Padron

Chapter 13

#18.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/28/19, 3/14/19

Also #16 & #17

EH __

Docket 0

Party Information

Debtor(s):

Efrain Padron

Represented By
Patricia A Mireles

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-20274 Robert Townsend

Chapter 13

#19.00 CONT Motion RE: Objection to Claim Number 1 by Claimant Santander Consumer USA Inc..

From: 3/14/19

Also #20

EH__

Docket 25

Party Information

Debtor(s):

Robert Townsend

Represented By
David A Akintimoye

Movant(s):

Robert Townsend

Represented By
David A Akintimoye

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:18-20274 Robert Townsend

Chapter 13

#20.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 3/14/19

Also #19

EH __

Docket 0

Party Information

Debtor(s):

Robert Townsend

Represented By
David A Akintimoye

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10036 Erlwin Williams

Chapter 13

#21.00 CONT Confirmation of Chapter 13 Plan

From: 3/14/19

EH __

Docket 0

Party Information

Debtor(s):

Erlwin Williams

Represented By
Laleh Ensafi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10243 Claudia Elena Arevalos

Chapter 13

#22.00 CONT Confirmation of Chapter 13 Plan

From: 3/28/19

EH __

Docket 0

Party Information

Debtor(s):

Claudia Elena Arevalos

Represented By
Robert L Firth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10415 Lewis K. Chism and Latoya A. Chism

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Party Information

Debtor(s):

Lewis K. Chism

Represented By
Christopher J Langley

Joint Debtor(s):

Latoya A. Chism

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10479 April Jean Fernandez

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/8/19**

Party Information

Debtor(s):

April Jean Fernandez

Represented By
Richard G Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10484 Xavier C. Luna

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Party Information

Debtor(s):

Xavier C. Luna

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10486 Nagazaki Lung and Veronica Lung

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Party Information

Debtor(s):

Nagazaki Lung

Represented By
Nathan Fransen

Joint Debtor(s):

Veronica Lung

Represented By
Nathan Fransen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10509 Terence J Gillespie

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Party Information

Debtor(s):

Terence J Gillespie

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10531 Kimberly A Hardcastle

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Party Information

Debtor(s):

Kimberly A Hardcastle

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10553 Charles Cuevas and Paula Cuevas

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/21/19**

Party Information

Debtor(s):

Charles Cuevas

Represented By
Anerio V Altman

Joint Debtor(s):

Paula Cuevas

Represented By
Anerio V Altman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10557 Carl John Larson, Jr.

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Party Information

Debtor(s):

Carl John Larson Jr.

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10564 Fermisa Ong Yang

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Party Information

Debtor(s):

Fermisa Ong Yang

Represented By
Ivan Trahan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10599 Robert G Alston

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Party Information

Debtor(s):

Robert G Alston

Represented By
Michael R Totaro

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-10625 Lucenia Esther Ortiz

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/12/19**

Party Information

Debtor(s):

Lucenia Esther Ortiz

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-11298 Zahra Boeshagi

Chapter 13

#34.00 Motion For Sanctions/Disgorgement Notice of Motion and Motion For Order Compelling Attorney To File Disclosure Of Compensation Pursuant To U.S.C. 329 And Federal Rule Of Bankruptcy Procedure 2016

CASE DISMISSED 2/26/19

EH__

Docket 14

Party Information

Debtor(s):

Zahra Boeshagi

Represented By
Dennis C. Winters

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-11371 Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

#35.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 1) 8893 Orange Street, Rancho Cucamonga, CA 91701, 2) 2006 Ford F-150

MOVANT: WARREN ALAN HALL AND KELLY SUZANNE HALL

From: 3/14/19, 3/21/19

EH__

Docket 15

Party Information

Debtor(s):

Warren Alan Hall

Represented By
Lionel E Giron

Joint Debtor(s):

Kelly Suzanne Hall

Represented By
Lionel E Giron

Movant(s):

Warren Alan Hall

Represented By
Lionel E Giron

Kelly Suzanne Hall

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-11975 Sandraea La 'Jean Plummer

Chapter 13

#36.00 Motion to vacate dismissal

EH__

Docket 16

Party Information

Debtor(s):

Sandraea La 'Jean Plummer

Represented By
Sunjay Bhatia

Movant(s):

Sandraea La 'Jean Plummer

Represented By
Sunjay Bhatia

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:00 AM

6:19-12079 Nora Munoz

Chapter 13

#37.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 939 Herrington Ave, San Bernardino CA 92411

MOVANT: NORA MUNOZ

EH__

Docket 9

Party Information

Debtor(s):

Nora Munoz

Represented By
William Radcliffe

Movant(s):

Nora Munoz

Represented By
William Radcliffe

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:14-13931 Annie Estrada

Chapter 13

#38.00 CONT Trustee's Motion to Dismiss Case re Delinquency

From: 2/28/19, 3/14/19

EH__

Docket 118

Party Information

Debtor(s):

Annie Estrada

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:14-19520 Jeffrey B Jordan

Chapter 13

#39.00 Trustee's Motion to Dismiss Case

EH ____

Docket 55

Party Information

Debtor(s):

Jeffrey B Jordan

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:14-24366 Alan G Olsen and Pamela J Olsen

Chapter 13

#40.00 Trustee's Motion to Dismiss Case

EH ____

Docket 131

Party Information

Debtor(s):

Alan G Olsen

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Joint Debtor(s):

Pamela J Olsen

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:14-24888 Jesus Padilla Simental

Chapter 13

#41.00 Trustee's Motion to Dismiss Case

EH__

Docket 86

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/25/19

Party Information

Debtor(s):

Jesus Padilla Simental

Represented By
Bryn C Deb

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:15-12404 Anthony E Turkson

Chapter 13

#42.00 Trustee's Motion to Dismiss Case

EH ____

Docket 180

Party Information

Debtor(s):

Anthony E Turkson

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:15-14835 Bennea Cynthia Travis

Chapter 13

#43.00 CONT Trustee's Motion to Dismiss Case

From: 3/14/19

EH ____

Docket 94

Party Information

Debtor(s):

Bennea Cynthia Travis

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:16-10385 Adolfo Gonzalez and Angelica Gonzalez

Chapter 13

#44.00 Trustee's Motion to Dismiss Case

EH__

Docket 93

Party Information

Debtor(s):

Adolfo Gonzalez

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Angelica Gonzalez

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:16-11622 Johnny Vera

Chapter 13

#45.00 Trustee's Motion to Dismiss Case

EH ____

Docket 42

Party Information

Debtor(s):

Johnny Vera

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:16-15304 Fabiola Puttre

Chapter 13

#46.00 Trustee's Motion to Dismiss Case

EH__

Docket 82

Party Information

Debtor(s):

Fabiola Puttre

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:16-21234 Frank A Horzen and Barbara A Horzen

Chapter 13

#47.00 Trustee's Motion to Dismiss Case

EH__

Docket 117

Party Information

Debtor(s):

Frank A Horzen

Represented By
Paul Y Lee

Joint Debtor(s):

Barbara A Horzen

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:16-21236 Ronald A Waters and Trisha Waters

Chapter 13

#48.00 Trustee's Motion to Dismiss Case

EH__

Docket 70

Party Information

Debtor(s):

Ronald A Waters

Represented By
Paul Y Lee

Joint Debtor(s):

Trisha Waters

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:17-11167 Victor Thomas Lawton

Chapter 13

#49.00 CONT Trustee's Motion to Dismiss Case

From: 2/28/19, 3/14/19, 3/28/19

EH__

Docket 45

Party Information

Debtor(s):

Victor Thomas Lawton

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:17-14292 Lubna Shiraz Ahmed

Chapter 13

#50.00 CONT Trustee's Motion to Dismiss Case

From: 3/28/19

EH__

Docket 80

Party Information

Debtor(s):

Lubna Shiraz Ahmed

Represented By
Joshua L Sternberg

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:17-17589 Ryan Patrick McHugh and Jennifer Lynne McHugh

Chapter 13

#51.00 CONT Trustee's Motion to Dismiss Case

From: 3/14/19

EH__

Docket 69

Party Information

Debtor(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Joint Debtor(s):

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:17-19739 Wasantha K. Leonidas

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

Party Information

Debtor(s):

Wasantha K. Leonidas

Represented By
Julie J Villalobos

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:17-20240 Natona Smith and Tameiko Smith

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 34

Party Information

Debtor(s):

Natona Smith

Represented By
Natalie A Alvarado

Joint Debtor(s):

Tameiko Smith

Represented By
Natalie A Alvarado

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:17-20487 Ann Marie Smith

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH__

Docket 72

Party Information

Debtor(s):

Ann Marie Smith

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:18-10112 Eddie Garcia and Martha Garcia

Chapter 13

#55.00 Trustee's Motion to Dismiss Case

EH__

Docket 56

Party Information

Debtor(s):

Eddie Garcia

Represented By
Paul Y Lee

Joint Debtor(s):

Martha Garcia

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:18-10636 Alejandro J. Casillas and Patricia Casillas

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 39

Party Information

Debtor(s):

Alejandro J. Casillas

Represented By
Tina H Trinh

Joint Debtor(s):

Patricia Casillas

Represented By
Tina H Trinh

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:18-11432 Armando Guzman

Chapter 13

#57.00 CONT Trustee's Motion to Dismiss Case

From: 3/28/19

EH__

Docket 37

Party Information

Debtor(s):

Armando Guzman

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:18-11532 Marsha Elizabeth Hall

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

Party Information

Debtor(s):

Marsha Elizabeth Hall

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:18-14949 Alice Chow

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 31

Party Information

Debtor(s):

Alice Chow

Represented By
Andrew Nguyen

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:18-15343 Jennifer Isabella Solares

Chapter 13

#60.00 CONT Trustee's Motion to Dismiss Case

From: 3/28/19

EH__

Docket 22

Party Information

Debtor(s):

Jennifer Isabella Solares

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:18-15617 Juan Vargas and Anabely E Vargas

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH__

Docket 54

Party Information

Debtor(s):

Juan Vargas

Represented By
Todd L Turoci

Joint Debtor(s):

Anabely E Vargas

Represented By
Todd L Turoci

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:18-17735 Carlos Garcia

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH__

Docket 34

Party Information

Debtor(s):

Carlos Garcia

Represented By
John F Brady

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 11, 2019

Hearing Room 303

11:01 AM

6:18-17784 David John Stoykovich, Jr. and Merlina Lynn Burton

Chapter 13

#63.00 Trustee's Motion to Dismiss Case

EH__

Docket 30

Party Information

Debtor(s):

David John Stoykovich Jr.

Represented By
Todd L Turoci

Joint Debtor(s):

Merlina Lynn Burton

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:15-14687 Vernia Jean Mosby

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11582 Holly Oak Dr, Fontana, California 92337

MOVANT: WILMINGTON SAVINGS FUND SOCIETY, FSB

From: 2/26/19, 3/26/19

EH__

Docket 111

Tentative Ruling:

2/26/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Vernia Jean Mosby

Represented By
Nancy Korompis

Movant(s):

Wilmington Savings Fund Society,

Represented By
Arnold L Graff
Joseph C Delmotte
Gilbert R Yabes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Vernia Jean Mosby

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 304 Calendar**

Tuesday, April 16, 2019

Hearing Room 304

10:00 AM

6:15-19930 Melinda Kay Allen

Chapter 13

#2.00 CONT Amended Motion (related document(s): 60 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11139 Laurel Ave., Bloomington CA 92316 . filed by Creditor US Bank Trust National Association as Trustee of IGSC Series II Trust) (Zilberstein, Kristin)

MOVANT: US BANK TRUST NA

From: 1/15/19, 3/26/19

EH__

Docket 62

Tentative Ruling:

01/15/2019
Service: Proper
Opposition: Yes

The Debtor, after seemingly failing to make payments to Movant for several months, now seeks a continuance based on a loan modification request that she has not yet submitted for review. The Court is inclined to GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay. DENY request for termination of the co-debtor stay based on lack of service on any co-debtor and lack of evidence as to identity of alleged co-debtor. GRANT request under ¶3. DENY request for APO as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Melinda Kay Allen

Represented By
Steven A Alpert

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 304 Calendar**

Tuesday, April 16, 2019

Hearing Room 304

10:00 AM

CONT... Melinda Kay Allen

Chapter 13

Movant(s):

US Bank Trust National Association

Represented By
Kristin A Zilberstein
Michelle R Ghidotti

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:16-16909 Edward Edmund Zozaya and Georgia Parrilla Zozaya

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 9617 Surrey Ave, Montclair, California 91763

MOVANT: WELLS FARGO BANK, NATIONAL ASSOCIATION

From: 1/29/19, 2/26/19, 3/26/19

EH__

Docket 234

Tentative Ruling:

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Edward Edmund Zozaya

Represented By
Dana Travis

Joint Debtor(s):

Georgia Parrilla Zozaya

Represented By
Dana Travis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Edward Edmund Zozaya and Georgia Parrilla Zozaya

Chapter 13

Movant(s):

Wells Fargo BAnk, N.A.

Represented By
April Harriott
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:17-14312 John C. Macias

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13411 Golden Sand Ave., Victorville, CA 92392

MOVANT: MIDFIRST BANK, A FEDERALLY CHARTERED SAVINGS ASSOCIATION

EH__

Docket 33

Tentative Ruling:

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

John C. Macias

Represented By
Raymond Obiamalu

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... John C. Macias

Chapter 13

Movant(s):

MidFirst Bank

Represented By
Josephine E Salmon
Darlene C Vigil
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:17-16255 Chad Priest Construction, Inc.,

Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Ram 4X2 RG VIN# 3C6JR6DG5GG239688

MOVANT: JPMORGAN CHASE BANK N.A.

EH__

Docket 48

Tentative Ruling:

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Chad Priest Construction, Inc.,

Represented By
Jonathan R Preston

Movant(s):

JPMORGAN CHASE BANK, N.A.

Represented By
Gilbert R Yabes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Chad Priest Construction, Inc.,

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Represented By
Robert A Hessling

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:17-20147 Gilbert Richard Enriquez and Lisa Lynn Enriquez

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13470 Preciado Avenue, Chino, CA 91710

MOVANT: THE BANK OF NEW YORK MELLON

EH__

Docket 47

***** VACATED *** REASON: ORDER ENTERED 4/15/19**

Tentative Ruling:

TENTATIVE RULING

April 16, 2019

Service: Proper

Opposition: Yes.

While there may be some dispute as to the amount of post-confirmation arrears, Debtors concede that they are in default. Creditor and Debtor are to apprise the Court of any reconciliation of the amount of arrears, and the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gilbert Richard Enriquez

Represented By
Raj T Wadhvani

Joint Debtor(s):

Lisa Lynn Enriquez

Represented By
Raj T Wadhvani

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Gilbert Richard Enriquez and Lisa Lynn Enriquez

Chapter 13

Movant(s):

The Bank of New York Mellon as

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-10248 Vaughn Stevens

Chapter 13

#7.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 79706 Parkway Esplanade South, La Quinta, CA 92253

MOVANT: CHARLES W. MORGAN REVOCABLE LIVING TRUST

From: 3/5/19

EH ____

Docket 46

*** VACATED *** REASON: CASE DISMISSED 3/29/19

Tentative Ruling:

4/16/2019

Due to dismissal of the case, and the termination of the automatic stay, this motion is
DENIED as moot.

APPEARANCES WAIVED

Party Information

Debtor(s):

Vaughn Stevens

Represented By
Amanda G Billyard
Andy C Warshaw

Movant(s):

Charles W. Morgan Revocable

Represented By
Caroline Djang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-11890 Rogelio Ramos and Maria Escobar

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 17708 Seville Avenue, Fontana, CA 92335

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

EH__

Docket 39

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/2/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rogelio Ramos

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Maria Escobar

Represented By
Rebecca Tomilowitz

Movant(s):

Deutsche Bank National Trust

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-12822 Cynthia Miller

Chapter 13

#9.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15036 Daffodil Circle, Fontana, CA 92336

MOVANT: WELLS FARGO BANK, N.A.

From: 3/26/19

EH__

Docket 42

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: Late

Parties to apprise Court of status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Cynthia Miller

Represented By
Richard L Barrett

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-13292 Bernice Hernandez Antunez

Chapter 13

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2180 Cordillera Avenue, Colton, CA 92324

MOVANT: U.S. BANK NATIONAL ASSOCIATION

EH__

Docket 25

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from the co-debtor stay under § 1301(a). GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Bernice Hernandez Antunez

Represented By
Daniel King

Movant(s):

U.S. Bank National Association, as

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Bernice Hernandez Antunez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-13715 Jennifer Elaine Sackett

Chapter 13

#11.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7538 Apache Trail, Yucca Valley, CA 92284

MOVANT: MIDFIRST BANK

From: 3/5/19

EH__

Docket 41

***** VACATED *** REASON: ORDER ENTERED 3/21/19**

Tentative Ruling:

03/05/2019

Service: Proper

Opposition: Yes

The Debtor's opposition offers evidence that the Debtor fell behind on her mortgage payments due to costs incurred as a result of a legal custody dispute. Debtor asserts that the dispute has now been resolved. Debtor further asserts that she expects a tax refund, additional income from a part time job, and increased child support payments which will enable her to come current within 90 days. While stay relief is warranted, the Court is inclined to enter an APO to permit the Debtor an opportunity to cure the post-petition arrears and to protect Movant from the expense of having to file additional motions for relief from stay. Parties to update the Court on APO discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jennifer Elaine Sackett

Represented By
Brian C Andrews

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Jennifer Elaine Sackett

Chapter 13

Movant(s):

MidFirst Bank

Represented By
Gilbert R Yabes
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-13793 Michael Moreno and Azucena Moreno

Chapter 13

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 JEEP GRAND CHEROKEE, VIN:1C4R JECG 5GC3 44961

MOVANT: MECHANICS BANK

EH__

Docket 52

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Moreno

Represented By
Andrew Nguyen

Joint Debtor(s):

Azucena Moreno

Represented By
Andrew Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Michael Moreno and Azucena Moreno

Chapter 13

Movant(s):

MECHANICS BANK

Represented By
Vincent V Frounjian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-14225 Karen Patricia Boyd

Chapter 13

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 16460 Zarco Luna Place, Moreno Valley, CA 92551

MOVANT: US BANK TRUST NATIONAL ASSOCIATION

EH__

Docket 38

***** VACATED *** REASON: ORDER ENTERED 4/11/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Karen Patricia Boyd

Represented By
David Lozano

Movant(s):

U.S. Bank Trust National

Represented By
Michelle R Ghidotti
Kathy Watson
Kristin A Zilberstein

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-14257 Adam Casey Addison

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 30285 Eagle Ridge Court, Murrietta, CA 92563-3546

MOVANT: SUN WEST MORTGAGE COMPANY

EH__

Docket 42

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C).

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Adam Casey Addison

Represented By
Nima S Vokshori
Luke Jackson

Movant(s):

Sun West Mortgage Company, Inc.,

Represented By
Nichole Glowin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Adam Casey Addison

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-14686 Cassandra Henderson

Chapter 13

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15005 Sorrel Road, Victorville, CA 92394

MOVANT: FREEDOM MORTGAGE CORPORATION

EH__

Docket 27

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Cassandra Henderson

Represented By
Julie J Villalobos

Movant(s):

Freedom Mortgage Corporation

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Cassandra Henderson

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-14725 Percylyn Agustin Basa

Chapter 13

#16.00 CONT Motion for relief from the automatic stay with supporting declarations
REAL PROPERTY RE: 14623 Meadowsweet Dr Eastvale, CA 92880

MOVANT: NATIONSTAR MORTGAGE LLC dba MR COOPER

From: 1/8/19, 2/5/19, 2/26/19, 3/26/19

EH__

Docket 56

***** VACATED *** REASON: ORDER ENTERED 4/12/19**

Tentative Ruling:

1/8/2019

Service is Proper
Opposition: Yes

Movant to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Percylyn Agustin Basa

Represented By
Benjamin R Heston

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Angie M Marth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-15051 Rueben Anthony Castro and Adrian Marie Castro

Chapter 7

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2010 Dodge Challenger, VIN 2B3CJ4DV2AH238325

MOVANT: AMERICREDIT FINANCIAL SERVICES, INC.

Also #18

EH__

Docket 49

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Rueben Anthony Castro

Represented By
Nicholas M Wajda

Joint Debtor(s):

Adrian Marie Castro

Represented By
Nicholas M Wajda

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Rueben Anthony Castro and Adrian Marie Castro

Chapter 7

Movant(s):

Americredit Financial Services, Inc.,

Represented By
Jennifer H Wang

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-15051 Rueben Anthony Castro and Adrian Marie Castro

Chapter 7

#18.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Dodge Ram 1500, VIN: 3C6RR6KT7GG117000

MOVANT: SANTANDER CONSUMER USA INC

Also #17

EH__

Docket 50

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Rueben Anthony Castro

Represented By
Nicholas M Wajda

Joint Debtor(s):

Adrian Marie Castro

Represented By
Nicholas M Wajda

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Rueben Anthony Castro and Adrian Marie Castro

Chapter 7

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-15131 Arcy B Gonzales and Margarita B Gonzales

Chapter 13

#19.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 53194 Monaco Street, Lake Elsinore, CA 92532

MOVANT: THE BANK OF NEW YORK MELLON

EH__

Docket 42

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Arcy B Gonzales

Represented By
Laleh Ensafi

Joint Debtor(s):

Margarita B Gonzales

Represented By
Laleh Ensafi

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Arcy B Gonzales and Margarita B Gonzales

Chapter 13

Movant(s):

The Bank of New York Mellon

Represented By
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-16905 Tina M Coca

Chapter 7

#20.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 48 SMX Capital SMX250P Panels, 2 Power One: PVI-6000 Inverters, racking system, mounting hardware, wiring; Size 12.000kW (DC) located at 2345 Cornell Circle, Corona, CA 92881. (12.000 kW Solar Photovoltaic System)

MOVANT: SOLARMAX RENEWABLE ENERGY PROVIDER, INC

From: 3/26/19

EH ____

Docket 22

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

Due to Movant's cure of service deficiencies, and Debtor's stated intent to surrender the property, the Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)(1) and (2). GRANT relief from Rule 4001 stay. GRANT request to proceed to collect collateral prior to the sale of the property upon which it is installed.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Tina M Coca

Represented By
Emilia N McAfee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Tina M Coca

Chapter 7

Movant(s):

Solarmax Renewable Energy

Represented By
Alexander G Meissner
Asya Landa

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-19027 Wendy Ramirez

Chapter 13

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 30157 Pine Needle Road, Menifee, CA 92585

MOVANT: FREEDOM MORTGAGE CORPORATION

EH__

Docket 26

Tentative Ruling:

4/16/2019

Service is Proper

Opposition: Yes

Parties to apprise Court as to status of adequate protection discussions.

APPEARANCES REQUIRED

Party Information

Debtor(s):

Wendy Ramirez

Represented By
Brian J Soo-Hoo

Movant(s):

Freedom Mortgage Corporation, its

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-20008 Catalina J Alvarez

Chapter 13

#22.00 Notice of Motion and 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) .

MOVANT: ALASKA USA FEDERAL CREDIT UNION

EH__

Docket 34

Tentative Ruling:

4/16/2019

Service is Proper

Opposition: No.

As Debtor had a Chapter 13 case pending within one year of their filing of this case, and Debtor failed to motion the Court to continue the automatic stay within 30 days after filing their petition, the Court is inclined to GRANT Creditor's motion for an order confirming termination of the stay under 11 U.S.C. § 362(c)(3).

The Court notes that relief under 11 U.S.C. § 362(d)(4) only applies to real property, and Creditor's current motion concerns personal property. As such, the Court is inclined to DENY Creditor's motion for relief under 11 U.S.C. § 362(d)(4).

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.
APPEARANCES REQUIRED.

Party Information

Debtor(s):

Catalina J Alvarez

Represented By
Julie J Villalobos

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Catalina J Alvarez

Chapter 13

Movant(s):

Alaska USA Federal Credit Union

Represented By
Bonni S Mantovani

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-20245 Jennifer Lynn Miller

Chapter 13

#23.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 42830 La Brinia Lane Anza, California 92539

MOVANT: CARRINGTON MORTGAGE SERVICES LLC

EH__

Docket 32

Tentative Ruling:

TENTATIVE RULING

4/16/2019

Opposition: Yes

Service: Proper

Parties to appraise the Court of the status of the arrears and adequate protection discussions, if any.

APPEARANCES REQUIRED

Party Information

Debtor(s):

Jennifer Lynn Miller

Represented By
Nicholas M Wajda

Movant(s):

Carrington Mortgage Services, LLC

Represented By
S Renee Sawyer Blume
Bonni S Mantovani

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Jennifer Lynn Miller

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-20569 Dolores Thompson Boone

Chapter 13

#24.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HYUNDAI Sonata Sedan 4D SE I4

MOVANT: EXETER FINANCE, LLC

EH__

Docket 24

***** VACATED *** REASON: ORDER ENTERED 3/14/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dolores Thompson Boone

Represented By
Nicholas M Wajda

Movant(s):

Exeter Finance, LLC

Represented By
Cheryl A Skigin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:18-20635 Luis Antonio Gaeta

Chapter 13

#25.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Kia Forte, VIN: KNAFK4A6XF5426074

MOVANT: AUTOMOTIVE CREDIT CORPORATION

EH__

Docket 18

***** VACATED *** REASON: CASE DISMISSED 3/28/19**

Tentative Ruling:

4/16/2019

Service is Proper

Opposition: No.

This case was dismissed at the confirmation hearing on March 28th, 2019. Under 11 U.S.C. 362(c)(2)(b) the stay was terminated as of that date. This matter is off-calendar as MOOT, due to the stay no longer being in effect.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Luis Antonio Gaeta

Represented By
Daniel King

Movant(s):

Automotive Credit Corporation

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:19-10236 Julio Alejandro Rodriguez-Flock

Chapter 7

#26.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 HONDA ACCORD, VIN: 1HGC R2F8 2FA1 85099

MOVANT: AMERICAN HONDA FINANCE CORPORATION

From: 4/16/19

EH__

Docket 11

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/26/19

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Julio Alejandro Rodriguez-Flock

Represented By
Edgar P Lombera

Movant(s):

AMERICAN HONDA FINANCE

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Julio Alejandro Rodriguez-Flock

Chapter 7

Vincent V Frounjian

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:19-10466 Jose Alvarado

Chapter 7

#27.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Toyota Camry

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH__

Docket 13

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose Alvarado

Represented By
Christopher Hewitt

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:19-11045 Gideon William Alexander Muaya

Chapter 7

#28.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Ford Focus, VIN: 1FADP3K23FL351222

MOVANT: FORD MOTOR CREDIT COMPANY LLC

EH__

Docket 9

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Gideon William Alexander Muaya

Represented By
James Geoffrey Beirne

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Gideon William Alexander Muaya

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:19-11428 Michael Robert Fister

Chapter 7

#29.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 BMW X3 sDrive28i Sport Utility 4D

MOVANT: FINANCIAL SERVICES VEHICLE TRUST

EH__

Docket 9

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Robert Fister

Represented By
Leon D Bayer

Movant(s):

Financial Services Vehicle Trust

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Michael Robert Fister

Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:19-11436 Timothy Lee Turner

Chapter 7

#30.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 13746 Coldwater Ct Corona, CA 92880

MOVANT: QIANG QUO, LING GUO

EH__

Docket 13

Tentative Ruling:

April 16, 2019

Service: Proper

Opposition: None

Movant's motion for relief from the stay under 11 U.S.C. § 362(d)(1) is GRANTED. Movant's request for waiver of FBRP 4001(a)(3) is GRANTED. Movant's request at ¶ 2 to enforce remedies to obtain possession of the property is GRANTED.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Timothy Lee Turner

Pro Se

Movant(s):

Guo, Ling Qiang

Represented By
Barry L O'Connor

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:19-11482 Anthony Hernandez-Machado

Chapter 7

#31.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Chevrolet Silverado 1500, VIN: 3GCPCREC6GG357685

MOVANT: TD AUTO FINANCE LLC

EH__

Docket 10

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Anthony Hernandez-Machado

Represented By
Curtis A Cavalletto

Movant(s):

TD Auto Finance LLC

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Anthony Hernandez-Machado

Chapter 7

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:19-11746 Arthur M Domingo and Victoria Domingo

Chapter 7

#32.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Ford F350, VIN 1FDRF3G65FED71373

MOVANT: FORD MOTOR CREDIT COMPANY LLC

EH__

Docket 8

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Arthur M Domingo

Represented By
William J Howell

Joint Debtor(s):

Victoria Domingo

Represented By
William J Howell

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Arthur M Domingo and Victoria Domingo

Chapter 7

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:19-11757 Virginia Ann Bennett

Chapter 13

#33.00 Motion for Relief from Stay

MOVANT: CAPITAL AUTO FINANCIAL

EH__

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Virginia Ann Bennett

Represented By
Lionel E Giron

Movant(s):

Capital Auto Financial

Represented By
Gennady L Lebedev

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:19-12402 Paul Sheldon Kirkwood

Chapter 13

#34.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 37244 Fallsgrove Murrieta, CA 92563; 2015 Ford F350 Super Duty Lariat 4WD SRW; 2012 Freightliner Cascadeas; 2015 Polaris Razor; 2005 Thor Wanderer 5th Wheel Trailer; 2011 Kia Rio Sedan LX .

MOVANT: PAUL SHELDON KIRKWOOD

EH__

Docket 9

Tentative Ruling:

4/16/2019

Service: Improper
Opposition: None.

Debtor's motion was improperly served under Judge Houle's self-scheduling rule III.D, which requires 14 days' notice through service on all interested parties, including creditors and their counsel, pursuant to FRBP 7004. FRBP 7004 requires service by certified mail on a party's officer or general agent for service of process. Debtor appears to have done so on all parties, except for Polaris Consumer Finance and Citizen's Bank, North America. Debtor failed to direct service to those parties' agent for service of process, and, in the case of Polaris, the location given is now closed.

As to the merits, the Court finds that Debtor has present sufficient evidence to rebut the presumption that this case was not filed in good faith and is inclined to GRANT Debtor's motion for an imposition of the automatic stay.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Paul Sheldon Kirkwood

Chapter 13

Debtor(s):

Paul Sheldon Kirkwood

Represented By
Michael E Clark

Movant(s):

Paul Sheldon Kirkwood

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

6:19-12439 Caleb Gervin and Ashley Gervin

Chapter 13

#35.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property Residence, Toyota Vehicle and Lexus Vehicle

MOVANT: CALEB GERVIN AND ASHLEY GERVIN

EH__

Docket 13

Tentative Ruling:

April 16, 2019

Service: Proper
Opposition: None

11 U.S.C. § 362(c)(3)(C)(i)(II)(cc) establishes a presumption of bad faith for a Chapter 13 petition if a Debtor has had a previous plan dismissed within the past year for failure to perform the plan as confirmed. Defeating this presumption requires a showing of clear and convincing evidence of good faith. Here, Debtors have seen an increase in net monthly income since their original petition, and it appears that they are capable of paying the plan payments. The Court is inclined to GRANT Debtor's motion to continue the stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Caleb Gervin

Represented By
Christopher Hewitt

Joint Debtor(s):

Ashley Gervin

Represented By
Christopher Hewitt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

10:00 AM

CONT... Caleb Gervin and Ashley Gervin

Chapter 13

Movant(s):

Caleb Gervin

Represented By
Christopher Hewitt

Ashley Gervin

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

2:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#36.00 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Causes of Action .

MOVANT: ANDRZEJ LUCZYNSKI AND Z&M TRADING, INC.

EH__

Docket 38

***** VACATED *** REASON: CONTINUED TO 4/30/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Courtesy NEF

Represented By
Dawn M Coulson
Paul M Stoddard
Mark W Edelstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#37.00 CONT Application for Compensation for Nicholas W Gebelt, Debtor's Attorney,
Period: 1/26/2018 to 11/21/2018, Fee: \$31,465.00, Expenses: \$673.89.

From: 1/8/19, 1/29/19, 3/26/19

EH__

Docket 95

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

2:00 PM

6:18-11806 Rick's Patio Inc

Chapter 11

#38.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report
(Post Confirmation)

From: 4/24/18, 7/31/18, 9/25/18, 12/4/18

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rick's Patio Inc

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#39.00 Motion for Relief from Stay UNDER 11 U.S.C. § 362.

MOVANT: JILLIAN SOTO

EH__

Docket 350

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

Movant(s):

Janette Lee

Represented By
Janette C Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

2:00 PM

6:17-15717 AMJ Plumbing Specialists Corp.

Chapter 11

#40.00 CONT Post Confirmation Status Conference

From: 12/18/18

EH__

Docket 161

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

AMJ Plumbing Specialists Corp.

Represented By
David Lozano

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#41.00 Application for Compensation First Interim Application of Terzian Law Group, A Professional Corporation, Attorneys for Debtor and Debtor in Possession with proof of service for Tamar Terzian, Debtor's Attorney, Period: 7/23/2018 to 3/15/2019, Fee: \$48,677.50, Expenses: \$2,934.30.

Also #42 - #44

EH__

Docket 120

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 16, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#42.00 CONT Motion to Dismiss Chapter 11 Case

From: 9/25/18, 10/1/18, 12/4/18, 12/18/18, 1/15/19, 2/5/19

Also #41 - #44

EH__

Docket 37

Tentative Ruling:

9/25/2018

BACKGROUND

On July 23, 2018, Richard Garavito ("Debtor") filed a Chapter 11 voluntary petition. Debtor previously filed a Chapter 13 case on April 17, 2018, which was dismissed on July 19, 2018.

On August 29, 2018, the Taylor Family Trust of June 16, 2004 ("Creditor"), the primary creditor in the instant case, filed a motion to confirm that the automatic stay terminated pursuant to 11 U.S.C. § 362(c)(3)(A). On September 7, 2018, Debtor filed a motion to continue/impose the automatic stay. Because Debtor has not offered a cognizable legal argument as to why the automatic stay has not terminated, or why Debtor can obtain a continuation of the automatic stay after the statutory deadline, the Court has posted tentative rulings indicating that it intends to grant Creditor's motion and deny Debtor's motion.

On September 11, 2018, Debtor filed a motion to dismiss the case and an application

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shortening time. On September 13, 2018, the Court approved the application shortening time, and set a hearing for September 25, 2018.

DISCUSSION

11 U.S.C. § 1112(b)(1) states:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

11 U.S.C. § 1112(b)(4) provides a non-exclusive list of sixteen examples of cause – most of which are more appropriately considered when the moving party is an entity other than the debtor.

Here, Debtor’s motion is unclear, at best. The entire argument why the case should be dismissed is reproduced, verbatim, as follows:

In the present case, since the motion to impose and/or continue the stay was not timely filed, the stay will no longer be in effect with the pending motion to terminate the stay filed by secured creditor Taylor Family Trust.

The Debtor should not be penalized due to counsel’s inadvertent calendaring

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error of the 30 days rule of filing a motion to impose and/or continue the stay. However, an argument can be made that under the majority approach a motion to impose or continue the stay shall be filed as to the Debtor individually and not as to the property of the estate. Here, the Subject Property is property of the estate and the automatic stay should be in effect as to the Subject Property.

However, due to circumstances surrounding the possible termination of the stay, the Debtor requests dismissal of this case as there is no purpose if the stay is not in effect as to the Subject Property.

[Dkt. No. 37, pg. 5]. In summary, Debtor acknowledges that the stay has statutorily terminated and the deadline to continue the automatic stay has lapsed, but then argues that such stay termination is with regards to the Debtor only, not property of the estate. Despite the argument, the Debtor then asserts that due to "circumstances" the Debtor requests dismissal because there is "no purpose" if the stay has also terminated as to property of the estate.

There are multiple issues with the above line of argument. First, Debtor does not appear to have raised any coherent cause for dismissal – the only argument made in favor of dismissal, that the "Subject Property" is not protected by the automatic stay, (and thus this Chapter 11 case cannot be successful) is also explicitly rejected by Debtor. Second, § 1112(b) requires the Court to consider whether dismissal or conversion to Chapter 7 is in the best interests of creditors and the estate. Here, Debtor's schedules filed in the instant case indicate that all creditors would likely be paid in full if this case was converted to Chapter 7. Therefore, pursuant to the analysis required by § 1112(b), it is unclear why this case would be dismissed rather than converted to Chapter 7.

Finally, the Court acknowledges that, in a reply relating to its motion to confirm that the automatic stay has terminated, Creditor has requested that, if the case is dismissed, Debtor be restricted from re-filing by a bar. While raising this argument in a reply relating to a different motion is procedurally improper, the Court need not address the request at the current time given the issues above.

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TENTATIVE RULING

Debtor and Creditor to argue: (1) whether there is cause for dismissal; (2) whether the automatic stay is in effect as to the Subject Property; and (3) whether dismissal or conversion to Chapter 7 would be in the best interests of creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

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6:18-16149 Richard Garavito

Chapter 11

**#43.00 CONT Disclosure Statement Describing Debtors Chapter 11 Plan
(HOLDING DATE)**

From: 1/29/19, 2/26/19

Also #41 - #44

EH__

Docket 87

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

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6:18-16149 Richard Garavito

Chapter 11

#44.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 8/21/18, 10/16/18, 12/4/18, 12/18/18, 1/15/19, 2/5/19

Also #41 - #43

EH ____

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

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11:00 AM

6:18-20373 Ronald Eugene Russell

Chapter 7

#1.00 Motion to Avoid Lien Real Property with Craig S. Nelson and Beverly Nelson

EH__

Docket 12

Tentative Ruling:

4/17/2019

On December 11, 2018, Ronald Russell ("Debtor") filed a Chapter 7 voluntary petition. Among the assets listed on Schedules A/B was certain real property located at 3 Volta Del Tintori, Lake Elsinore, CA 92532 (the "Property"), which Debtor valued at \$431,300. On Schedule C, Debtor claimed an exemption in the Property in the amount of \$85,491.49.

On February 5, 2019, Debtor filed a motion to avoid the judgment lien of Craig & Beverly Nelson ("Creditors"). On February 22, 2019, Creditors filed a response. The matter was set for hearing on April 17, 2019. Debtor subsequently filed an appraiser's declaration and a reply.

The Court is inclined to DENY the motion, without prejudice, for lack of cause shown. Specifically, the Court notes that 11 U.S.C. § 522(f), in part, states the following: "Notwithstanding any waiver of exemptions but subject to paragraph (3), the debtor may avoid the fixing of a lien *on an interest of the debtor in property* to the extent that such lien impairs an exemption . . ." (emphasis added). Here, it is not clear what interest Debtor has in the Property.

California law does now explicitly provide that judgment liens can attach to equitable interests. *See* CAL. CODE CIV. P. § 697.340. Nevertheless, whether Debtor has an equitable interest in the Property, and to what extent, is not clear. This is especially true in light of the fact that the mortgage statement provided in support of the motion is addressed to a Deborah Russell, and the deed of trust identifies the borrower as "Deborah Lee Russell, a married woman, as her [s]ole and [s]eparate [p]roperty."

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CONT... Ronald Eugene Russell

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Furthermore, the recorded abstract of judgment for Debtor lists two addresses, neither of which is the address of the Property.

The Court also notes that there further deficiencies or issues with the instant motion. First, Debtor has improperly deducted costs of sale from the appraised fair market value. *See, e.g., In re Barrett*, 370 B.R. 1, 3 (Bankr. D. Me. 2007) ("a bevy of courts have opted against including hypothetical sales costs and other transaction costs in the valuation of collateral for the purpose of determining the fate of a judicial lien") (collecting cases). Because Debtor's reduction of the property's fair market value is not permitted, even if Debtor could resolve the issue stated above, Creditor's lien could not be avoided in full. Second, it appears that, pursuant to FED. R. BANKR. P. Rule 4003(b)(1), the deadline to object to Debtor's exemption has not passed; given the contents of Creditor's opposition, the Court deems it necessary to wait for the expiration of that deadline. Third, the Court notes that none of the exhibits to the motion are properly authenticated. Finally, because Debtor has not filed out the proposed order attachment to the motion, the motion technically does not request any relief.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ronald Eugene Russell

Represented By
Vincent Renda

Movant(s):

Ronald Eugene Russell

Represented By
Vincent Renda

Trustee(s):

Charles W Daff (TR)

Pro Se

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6:18-15604 John Anthony Ploszaj

Chapter 7

#2.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 30

Tentative Ruling:

4/17/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,350.00
Trustee Expenses: \$ 40.11

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

John Anthony Ploszaj

Represented By
Robert L Firth

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:18-20247 Stephen Lynn Overmyer

Chapter 7

Adv#: 6:19-01039 McCune v. Overmyer

#3.00 Status Conference RE: [1] Adversary case 6:19-ap-01039. Complaint by B. Lynn McCune against Stephen Overmyer . false pretenses, false representation, actual fraud))

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Lynn Overmyer

Represented By
Gordon L Dayton

Defendant(s):

Stephen Overmyer

Represented By
Gordon L Dayton

Plaintiff(s):

B. Lynn McCune

Represented By
James A Rainboldt

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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6:18-10208 Rolando Carlos Reyes
Adv#: 6:18-01117 Pringle v. Reyes

Chapter 7

#4.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01117. Complaint by John P. Pringle against Reginald Reyes. (Charge To Estate - \$350.00). with Proof of Service Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(91 (Declaratory judgment)),(11 (Recovery of money/property - 542 turnover of property))

From: 7/25/18, 10/24/18, 1/16/19

EH__

Docket 1

***** VACATED *** REASON: ORDER DISMISSING ADVERSARY
FILED 3/13/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rolando Carlos Reyes

Represented By
Walter Scott

Defendant(s):

Reginald Reyes

Represented By
Walter Scott

Joint Debtor(s):

Florencia Aquino Reyes

Represented By
Walter Scott

Plaintiff(s):

John P. Pringle

Represented By
Brandon J Iskander

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CONT... Rolando Carlos Reyes

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Trustee(s):

John P Pringle (TR)

Represented By

Lynda T Bui

Brandon J Iskander

Shulman Hodges & Bastian LLP

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6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01222 Anderson, Chapter 7 Trustee v. Bobby Lee Associates, LLC

#5.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01222. Complaint by Karl T. Anderson, Chapter 7 Trustee against Bobby Lee Associates, LLC. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(14 (Recovery of money/property - other)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Polis, Thomas)

From: 1/16/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Bobby Lee Associates, LLC

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

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6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01227 Anderson, Chapter 7 Trustee v. Wang

#6.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01227. Complaint by Karl T. Anderson, Chapter 7 Trustee against Ming Chung Wang. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Polis, Thomas)

From: 1/16/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Ming Chung Wang

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

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6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01228 Anderson, Chapter 7 Trustee v. Via Cerro Partners, LP

#7.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01228. Complaint by Karl T. Anderson, Chapter 7 Trustee against Via Cerro Partners, LP. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Polis, Thomas)

From: 1/16/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Via Cerro Partners, LP

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

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6:17-13012 Issa M Musharbash

Chapter 7

Adv#: 6:17-01138 Musharbash et al v. Musharbash et al

#8.00 Amended Motion for order to strike the "answer to discovery" erroneously filed by defendants (related document(s): 82 Motion to strike filed by Plaintiff Phillip Musharbash, Plaintiff Violette Musharbash)

EH__

Docket 85

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Issa M Musharbash

Represented By
Brian J Soo-Hoo

Defendant(s):

Issa M Musharbash

Pro Se

Amal Musharbash

Pro Se

Joint Debtor(s):

Amal Issa Musharbash

Represented By
Brian J Soo-Hoo

Movant(s):

Phillip Musharbash

Pro Se

Violette Musharbash

Pro Se

Plaintiff(s):

Phillip Musharbash

Pro Se

Violette Musharbash

Pro Se

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CONT... Issa M Musharbash

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Trustee(s):

Larry D Simons (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#9.00 CONT Motion RE: Objection to Claim Number 11 by Claimant Natasha Reynoso and Mark Reynoso

HOLDING DATE

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18, 2/6/19

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Movant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#10.00 Motion to Dismiss Adversary Proceeding (Fourth Amended Complaint)

Also #11

EH__

Docket 132

Tentative Ruling:

4/17/2019

BACKGROUND

On September 12, 2016, Douglas and Anne Goodman (collectively, "Debtors" or "Defendants") filed their Chapter 13 voluntary petition.

On November 11, 2016, Mark and Natasha Reynoso ("Plaintiffs") filed a complaint seeking determination of the dischargeability of a debt pursuant to 11 U.S.C. § 523(a) (2)(A) (the "Complaint"). Specifically, Plaintiffs allege that, in 2015, they purchased real property located at 1656 West Lisbon Street in Upland, CA (the "Property") from the Debtors, and that a sale was consummated upon a misrepresentation of Debtors' agent, Theresa Mann, regarding the square footage of the Property. Plaintiffs also assert that they were led to believe that a water leak in the upstairs bathroom had been repaired. Plaintiffs allege that the Debtors knew or should have known that their agent was making false and misleading representations to Plaintiffs.

On February 3, 2017, the Court entered an order granting Defendants first motion to dismiss the Complaint, with leave to amend. A First Amended Complaint (the "FAC") was filed on February 28, 2017. On April 19, 2017, the Plaintiffs filed a First Amended Complaint captioned "Corrected" which indicated it had been corrected for typographical errors. (the "Corrected Complaint" or the "SAC"). The Court denied Defendants' second motion to dismiss at a hearing on May 4, 2017. On June 5, 2017, the Defendants filed their Answer to the FAC ("Answer").

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CONT... Douglas Edward Goodman

Chapter 13

On March 9, 2018, the Defendants moved to dismiss the SAC. The Court granted the motion to dismiss the SAC, with leave to amend. A third amended complaint was then filed on May 23, 2018 (the "TAC"). [Note: there is a dispute regarding whether the operative complaint is a second or third amended complaint due to the filing of the "corrected complaint" indicated above. For purposes of this hearing, the operative complaint is Docket No. 93, the TAC].

On June 25, 2018, Defendants filed a motion to dismiss the TAC. This motion was orally granted after a hearing on August 2, 2018, after Plaintiffs failed to file opposition to the motion, and neither party appeared at the hearing. On August 29, 2018, the Court's oral ruling was set aside based upon stipulation of the parties. On October 9, 2018, Defendants filed opposition to the instant motion to dismiss. The matter was then continued on multiple occasions to afford the parties the opportunity to settle the matter. Finally, after a hearing, the Court dismissed the TAC, with leave to amend, on February 20, 2019.

On February 25, 2019, Plaintiffs filed a fourth amended complaint (the "4th AC"). On March 20, 2019, Defendants filed a motion to dismiss the 4th AC. Defendants argue that the 4th AC: (1) fails to set forth a basis for a money judgment under state law; (2) fails to state a claim upon which relief may be granted; and (3) fails to state a claim of false representation attributable to Defendants. On April 3, 2019, Plaintiffs filed their opposition.

DISCUSSION

I. STANDARD FOR MOTION TO DISMISS

FED. R. CIV. P. Rule 12(b)(6), made applicable in adversary proceedings through FED. R. BANKR. P. Rule 7012, a bankruptcy court may dismiss a complaint if it fails to "state a claim upon which relief can be granted." In reviewing a FED. R. CIV. P. Rule 12(b)(6) motion, the trial court must accept as true all facts alleged in the complaint and draw all reasonable inferences in favor of the plaintiff. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). The trial court need not, however, accept as true conclusory allegations in a complaint or legal characterizations cast in the form of factual allegations. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–56, 127 S.Ct. 1955, 167

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L.Ed.2d 929 (2007); *Hartman v. Gilead Scis., Inc. (In re Gilead Scis. Sec. Litig.)*, 536 F.3d 1049, 1055 (9th Cir. 2008).

To avoid dismissal under FED. R. CIV. P. Rule 12(b)(6), a plaintiff must aver in the complaint "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, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting *Twombly*, 550 U.S. at 570, 127 S.Ct. 1955). It is axiomatic that a claim cannot be plausible when it has no legal basis. A dismissal under FED. R. CIV. P. Rule 12(b)(6) may be based either on the lack of a cognizable legal theory or on the absence of sufficient facts alleged under a cognizable legal theory. *Johnson v. Riverside Healthcare Sys.*, 534 F.3d 1116, 1121 (9th Cir.2008).

II. FAILURE TO STATE A LEGAL BASIS FOR A MONEY JUDGMENT

The Court notes that this is the *fourth* amended complaint, and that the Court has previously held several hearings on the motions to dismiss filed by Defendants. The primary issue during those hearings was the failure of Plaintiffs to assert a legal basis which could serve as the basis of a debt and a money judgment. The following excerpt is from the Court's tentative ruling at a hearing on February 6, 2019:

The crux of Defendants' argument for dismissal of the TAC is that Plaintiffs have not set forth the basis for a money judgment under state law. In the Court's tentative ruling on the motion to dismiss the FAC, the Court stated the following:

The Ninth Circuit has held that a bankruptcy court may enter a monetary judgment on a disputed state law fraud claim in the course of determining that the debt is nondischargeable. *Cowen v. Kennedy (In re Kennedy)*, 108 F.3d 1015 (9th Cir.1997). *Shawn Deitz v. Wayne Ford, Patricia Ford (In re Wayne Ford, Patricia Ford)*, 469 B.R. 11, 21 (9th Cir. BAP 2012), *aff'd*, 760 F.3d 1038 (9th Cir. 2014). Here, although the Complaint is not explicit regarding the state law causes of action at issue, it appears implicit in the allegations that the Plaintiffs seek a monetary judgment as to a fraud or misrepresentation claim. Nonetheless, Plaintiffs should not have to guess at the state law basis of the debt for a money judgment.

Here, the TAC has added bases for calculation of damages under state law but has still not set forth the state law basis for the monetary judgment. Thus, the Plaintiffs have still not addressed the concerns raised by the Court and

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Douglas Edward Goodman

Chapter 13

Defendants that they do not have sufficient notice of the basis for a monetary judgment such that the Defendants can adequately defend themselves in the action.

Given the contents of the opposition to the motion to dismiss, and noting the discussion at previous hearings to dismiss, it appears there is significant confusion regarding the required contents of a complaint in this situation. Importantly, the instant situation is unique. There is a parallel, outstanding claim objection which could serve as a forum to litigate the validity of the underlying debt. Instead of maintaining two parallel, and overlapping, courses of litigation, the claim objection proceeding has been converted to a "holding date" so that both issues, the validity of the underlying debt and, if established, the non-dischargeability of that debt, can be more efficiently litigated in a single proceeding. Because this adversary proceeding is functioning as more than just a proceeding to determine the non-dischargeability of a pre-determined debt, Plaintiffs need to articulate the state law basis for the debt with the precision and clarity that would be required in, for instance, a state court proceeding. This is even more critical because, at a previous hearing, state law affirmative defenses of limited applicability were raised, and the Court is unable to assess the validity of such defenses when it is unclear what Plaintiff has raised as a theory of debt.

For the reasons stated in the preceding paragraphs, the Court is inclined to GRANT the motion, with leave to amend. Plaintiffs are reminded that this instant adversary proceeding serves two functions: (1) to litigate the validity of the debt; and (2) to litigate the non-dischargeability of that debt, if established. The former is really the preliminary issue in this situation, and the court expects the former to be pled with sufficient detail to enable the Court and Defendants to clearly ascertain Plaintiff's theory of the debt.

Defendants continue to argue that Plaintiffs have failed to set forth a basis for a money judgment under state law. Specifically, Defendants inartfully state:

Here, although the Complaint is not explicit regarding the state law causes of action at the issue, it appears implicit in allegations that the Plaintiff seeks a monetary judgment as to fraud or misrepresentation claim. Nonetheless, Plaintiffs should not have to guess at the state law basis of the debt for a money judgment.

[Dkt. No. 132, pg. 8]. This argument is not well taken. The 4th AC's first claim

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for relief explicitly states that it is for fraud/misrepresentation of material facts pursuant to CAL. CIV. CODE §§ 1709-10. Therefore, the Court concludes that Plaintiffs have set forth a valid state law basis for a money judgment.

III. FAILURE TO STATE A CLAIM

While Defendants' motion to dismiss contains two different sections addressed to this issue, sections three and four, the sections actually overlap. The crux of Defendants' argument is that it was not Defendants themselves who made the misrepresentations at issue, but, rather, third-parties.

The Court need not resolve whether Plaintiffs can use the misrepresentations of an agent as a basis for non-dischargeability because the 4th AC contains allegations that defendant Anne Goodman also made misrepresentations. Specifically, paragraph 20 of the 4th AC contains an allegation that Anne Goodman stated "that the upstairs water leak had been repaired." And paragraph 14 of the 4th AC contains an assertion that Anne Goodman verified the real estate agent's misrepresentations regarding the square footage of the property. Therefore, it is not accurate to assert that the 4th AC only contains allegations that misrepresentations were made by third parties.

TENTATIVE RULING

The Court is inclined to DENY the motion to dismiss.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

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Defendant(s):

Douglas Edward Goodman	Represented By Edward T Weber
Anne Louise Goodman	Represented By Edward T Weber
Theresa Mann	Represented By Andrew L Leff
Jose Pastora	Represented By Andrew L Leff

Joint Debtor(s):

Anne Louise Goodman	Represented By Edward T Weber
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Movant(s):

Douglas Edward Goodman	Represented By Edward T Weber
Anne Louise Goodman	Pro Se
Douglas Edward Goodman	Pro Se
Anne Louise Goodman	Pro Se
Douglas Edward Goodman	Represented By Edward T Weber
Douglas Edward Goodman	Pro Se
Anne Louise Goodman	Pro Se
Anne Louise Goodman	Represented By Edward T Weber
Douglas Edward Goodman	Represented By Edward T Weber
Anne Louise Goodman	Represented By Edward T Weber

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CONT... Douglas Edward Goodman

Chapter 13

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#11.00 CONT Status Conference RE: [13] Amended Complaint by Michael J Hemming on behalf of Mark & Natasha Reynoso against Anne Louise Goodman, Douglas Edward Goodman. (RE: related document(s)1 Adversary case 6:16-ap-01277. Complaint by Mark & Natasha Reynoso against Douglas Edward Goodman, Anne Louise Goodman. false pretenses, false representation, actual fraud) filed by Plaintiff Mark & Natasha Reynoso)
(Holding Date)

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18, 2/6/19

Also #12

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Theresa Mann

Represented By
Andrew L Leff

**United States Bankruptcy Court
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CONT... Douglas Edward Goodman

Chapter 13

Jose Pastora

Represented By
Andrew L Leff

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:14-17350 Dean L. Springer, Sr. and Tami Jo Springer

Chapter 7

#12.00 Motion for Protective Order and for Sanctions for Discovery Abuse

Also #13

EH__

Docket 215

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dean L. Springer Sr.

Pro Se

Joint Debtor(s):

Tami Jo Springer

Pro Se

Movant(s):

Larry D Simons (TR)

Represented By
Richard A Marshack
Sarah Cate Hays
D Edward Hays
Laila Masud

Trustee(s):

Larry D Simons (TR)

Represented By
Richard A Marshack
Sarah Cate Hays
D Edward Hays
Laila Masud

**United States Bankruptcy Court
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6:14-17350 Dean L. Springer, Sr. and Tami Jo Springer

Chapter 7

#13.00 CONT Motion for Order Requiring Disgorgement of Funds from Hilder & Associates

From: 1/30/19, 2/27/19

Also #12

EH__

Docket 192

Tentative Ruling:

4/17/19

BACKGROUND

On June 3, 2014, Dean & Tami Springer ("Debtors") filed a Chapter 7 voluntary petition. Debtors' case led to substantial investigation by Trustee, ultimately producing ten adversary proceedings filed by Trustee.

As part of its investigation, Trustee requested documents from Hilder & Associates ("Hilder"), Debtors' criminal defense counsel. Trustee learned that Hilder received a retainer of \$117,500 (the "Retainer"), on the eve of bankruptcy, for the provision of criminal defense services. Trustee argues that the entirety of the Retainer is subject to disgorgement and turnover because Hilder did not comply with the disclosure requirements of 11 U.S.C. § 329(a). Trustee alternatively argues that \$43,500 of the Retainer is property of the estate because it was unearned as of the petition date.

Extended settlement discussions did not result in a compromise. On November 7,

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CONT... **Dean L. Springer, Sr. and Tami Jo Springer** **Chapter 7**

2018, Trustee filed a motion for disgorgement of funds. Trustee decided to set the matter for hearing on January 30, 2019, to allow the parties to conduct discovery prior to the hearing. Pursuant to a stipulation, the hearing on the matter was continued to February 27, 2019. On February 13, 2019, Hilder filed its opposition. The Court then continued the matter to April 17, 2019. Also on calendar is a discovery dispute related to certain discovery requests propounded by Hilder on January 29, 2019.

According to Trustee, Hilder advised "Debtor [Dean Springer] to assert his 5th Amendment rights in connection with his meeting of creditors and regarding the adversary to deny discharge." [Dkt. No. 192, pg. 21, lines 12-13].

DISCUSSION

A. *11 U.S.C. § 329 & DISGORGEMENT*

11 U.S.C. § 329(a) provides:

Any attorney representing a debtor in a case under this title, or in connection with a such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of or in connection with the case by such attorney, and the source of such compensation.

Furthermore, FED. R. BANKR. P. Rules 2016 and 2017 provide additional rules regarding the disclosure and examination of compensation for attorneys.

The most critical dispute between the parties is whether Hilder represented Debtors

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CONT... **Dean L. Springer, Sr. and Tami Jo Springer**

Chapter 7

"in connection with [the bankruptcy] case." Both Trustee and Hilder have presented caselaw which unambiguously supports their position. Trustee cites *In re Rheuban*, 121 B.R. 368, 377 (Bankr. C.D. Cal. 1990), which stated, in part:

It cannot be disputed that regulatory and criminal proceedings focused on Debtor's relationship with FNSB is currently having and will continue to have a substantial impact on this bankruptcy case. The clearest example of this is Debtor's refusal to respond to any questions regarding his business affairs at the 11 U.S.C. § 341(a) meeting of creditors conducted in this bankruptcy case. O & L represented Debtor at these meetings and apparently advised Debtor regarding his invocation of this Fifth Amendment.

The Court in *In re Rheuban* offered the following conclusion:

Thus I conclude that the "in connection with" language used in § 329 extends the scope of the Court's review to compensation paid by the debtor to an attorney any time after one year prior to the commencement of the debtor's bankruptcy case, whether or not the court can make a subjective determination that the debtor was contemplating bankruptcy, *if* it can be objectively determined that the services rendered or to be rendered by the attorney have or will have an impact on the bankruptcy case.

121 B.R. at 378. The relatively broad legal standard endorsed in *In re Rheuban* directly conflicts with the standard adopted in the case emphasized by Hilder, *In re Bressman*, 327 F.3d 229, 240-41 (3rd Cir. 2003), which stated:

[R]epresentation of a debtor in a criminal case during the period of bankruptcy would not normally require a report any more than would representation of the debtor in a divorce proceeding during that period. While acknowledging this, the Trustee nevertheless insists that this case is different because of three alleged connections between Newman & Schwartz's representation of the Debtor and the bankruptcy proceeding. First, the Debtor pled guilty in the criminal proceeding and agreed to

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CONT...

Dean L. Springer, Sr. and Tami Jo Springer

Chapter 7

cooperate with the District Attorney, and those decisions of the Debtor "led to" a settlement of civil claims which benefitted the estate. Second, Newman & Schwartz advised the Debtor to claim the Fifth Amendment in the bankruptcy proceedings and reviewed a brief filed in those proceedings which relied upon the Debtor having to assert the Fifth Amendment in the criminal proceedings. Finally, the Trustee points to three entries in Newman & Schwartz's billing records that refer to an attorney having reviewed "bankruptcy related" documents, as well as a small number of telephonic conferences with bankruptcy counsel.

We find no § 329 violation. Nothing in the record suggests that Newman & Schwartz did anything other than provide representation to the Debtor in the criminal proceedings against him. It advised him to assert his Fifth Amendment privilege in those proceedings and, when he decided to do so, it advised him on what he must do to preserve the privilege, including asserting it in the bankruptcy proceeding. While its fee sheets indicate that it spent a minimal amount of time reviewing "bankruptcy related" documents and speaking to the Debtor's bankruptcy counsel, nothing suggests that this was for any purpose other than providing effective representation in the criminal proceedings. . . . Actions taken by a client in the course of a representation will normally have a multitude of side effects, with respect to which counsel has assumed no responsibility and, indeed, of which counsel may have no knowledge. If § 329 were held to sweep so broadly, it is difficult to understand how even the most conscientious of counsel could assure compliance.

[Citation omitted]. While the parties make some attempt to factually and procedurally distinguish the cases mentioned above, it appears clear that applying the two standards adopted in *In re Rheuban* and *In re Bressman* would result in two different holdings in this situation.

While the Court is aware that numerous citations could be offered in support of either the broad or narrow interpretation of the "in connection with" clause contained in § 329(a), the Court is inclined to conclude that FED. R. BANKR. P. Rule 2017 supports the narrower reading adopted by *In re Bressman*. Specifically, the Court notes that FED. R. BANKR. P. Rule 2017 states the following:

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Chapter 7

- (a) **Payment or Transfer to Attorney Before Order for Relief.** On motion by any party in interest or on the court's own initiative, the court after notice and a hearing may determine whether any payment of money or any transfer of property by the debtor, made directly or indirectly and in contemplation of the filing of a petition under the Code by or against the debtor or before entry of the order for relief in an involuntary case, to an attorney for services rendered or to be rendered is excessive.
- (b) **Payment or Transfer to Attorney After Order for Relief.** On motion by the debtor, the United States trustee, or on the court's own initiative, the court after notice and a hearing may determine whether any payment of money or any transfer of property, or any agreement therefor, by the debtor to an attorney after entry of an order for relief in a case under the Code is excessive, whether the payment or transfer is made or is to be made directly or indirectly, if the payment, transfer, or agreement therefor is for services in any way related to the case.

In the instant motion, Trustee asserts the following:

All in all, bankruptcy courts are empowered to examine and disgorge all fees paid within the one year prior to bankruptcy and after the petition date, irrespective of the nature of the services rendered, in order to determine whether they were paid in connection or in contemplation of bankruptcy and whether they are reasonable.

[Dkt. No. 192, pg. 12, lines 9-12]. While this assertion is somewhat convoluted due to its use of a number of conjunctions, it would appear that the assertion conflicts somewhat with FED. R. BANKR. P. Rule 2017. Rule 2017 distinguishes between prepetition and postpetition payments. Regarding the former, the rule provides for examination of payments made "in contemplation of the filing of a petition." Regarding the latter, the rules provides for examination of payments made "for services in any way related to the case." This latter standard seems to reflect the broader rule, which was endorsed by *In re Rheuban*; the former seems to reflect the narrower rule, favored by *In re Bressman*.

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CONT... Dean L. Springer, Sr. and Tami Jo Springer

Chapter 7

Here, the payment at issue was a prepetition payment, and thus would fall under the more restricting subsection, FED. R. BANKR. P. Rule 2017(a). While 11 U.S.C. § 329(a) requires disclosure of payment received for services rendered "in contemplation of *or* in connection with" (emphasis added) a bankruptcy case, such disclosure would seem to be of limited practical significance if those payments are not included within the scope of the Court's review under Rule 2017(a). While the Court does not read "in connection with" as interchangeable with "in contemplation of," the Court concludes that the phrases should be similarly limiting, at least in the context of prepetition arrangements, and that the narrower reading of the phrase "in connection with," is more appropriate given the language of Rule 2017(a).

While Trustee's motion includes a subsection discussing the "in contemplation of" standard, after a paragraph which recites the applicable standard, the subsection reverts back to using the "in connection with" phrase. Furthermore, the record before the Court is devoid of any evidence which would suggest that the Retainer at issue was executed in contemplation of bankruptcy, or that the services contracted for were sufficiently connected to this bankruptcy proceeding as to bring the Retainer within the purview of 11 U.S.C. § 329.

B. THE RETAINER & PROPERTY OF THE ESTATE

Trustee's alternative argument is that \$43,500 of the Retainer was not earned as of the petition date and constitutes property of the estate subject to turnover. Hilder argues that the Retainer was a non-refundable, earned upon receipt retainer, and that, as a result, no portion of the Retainer can be characterized as property of the estate. Hilder's principal place of business is in Texas, and the parties appear to agree that Texas law applies to determine the respective property interests.

The only relevant evidence provided by Trustee in its motion is found at paragraph eight of the attached declaration, which provides:

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CONT...

Dean L. Springer, Sr. and Tami Jo Springer

Chapter 7

The rules in Texas regarding "true" or "earned upon receipt" retainers seem to align with the rules in California. A true and correct copy is attached as Exhibit "2.", which found that "any payment for services not yet completed does not meet the strict requirements for a non-refundable retainer (as that term is used in this opinion) and must be deposited in the lawyer's trust or escrow account.

[Dkt. No. 192, pg. 8, lines 2-6]. Regarding Trustee's legal argument, Trustee primarily relies upon a Texas Ethics Opinion, but also cites *In re Dixon*, 143 B.R. 671 (Bankr. N.D. Tex. 1992), which Trustee asserts stands for the proposition that the Retainer remained property of the estate until the attorney applies the funds against charges incurred.

Hilder's primary argument in response is that the Retainer is a "classic retainer" which "involves fees paid as consideration for employment of counsel, as opposed to compensation for services rendered." [Dkt. No 205, pg. 16, lines 24-26].

There are extensive problems with the current procedural posture. First, as briefly noted above, the instant motion contains virtually no supporting evidence; the relevant evidence is only presented to the Court in the opposition and the reply, and the evidence is materially redacted. Second, Trustee appears to have shifted its argument in the reply. The motion appears to argue that funds not earned as of the petition date are property of the estate, although the motion does not contain evidence which would allow the Court to determine whether the funds were earned. The reply, however, seems to shift, apparently conceding that a non-refundable retainer is appropriate in some circumstances, while arguing that it is not appropriate in these circumstances. In order to support that argument, Trustee presents new evidence not included in the underlying motion, an approach disfavored by Local Rule 9013-1(g)(4).

While not raised by the parties, FED. R. BANKR. P. Rule 7001(1) provides that "a proceeding to recover money or property, other than a proceeding to compel the debtor to deliver property of the trustee, or a proceeding under § 554(b) or § 725 of the Code, Rule 2017, or Rule 6002" is an adversary proceeding. While Trustee's argument for disgorgement pursuant to 11 U.S.C. § 329 and FED. R. BANKR. P. Rule

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Chapter 7

2017 is explicitly excepted from those proceedings characterized as adversary proceedings, Trustee's argument that the unearned portion of the Retainer is property of the estate fits within the scope of Rule 7001(1). Bankruptcy courts differ regarding when waiver of the Rule 7001(1) adversary proceeding requirement is appropriate. *See, e.g.*, 10 COLLIER'S ON BANKRUPTCY ¶ 7001.01 (16th ed. 2018) ("Failure to commence an adversary proceeding when seeking the relief of the kind listed in Rule 7001 has resulted in denial of the motion or dismissal of the proceeding. However, in cases where no prejudice to the parties has arisen or where no objection to the procedural defect has been lodged, certain courts allow matters to proceed by way of motions under Rule 9014 rather than as adversary proceedings.") (footnote omitted) (collecting cases).

Here, it may not be appropriate to waive the requirements of an adversary proceeding for several reasons. First, the failure to commence an adversary proceeding has directly contributed to the discovery dispute also currently at issue. Second, the evidentiary record has not been fully developed; to the extent it has been developed, such development primarily occurred in Trustee's reply. Third, Trustee's argument that a portion of the Retainer constitutes property of the estate still seems to be evolving as the briefing progresses.

In light of the problems caused by proceeding under Rule 9014, rather than through an adversary proceeding, the Court is inclined to require an adversary proceeding.

TENTATIVE RULING

The Court is inclined to DENY the motion in its entirety, or, alternatively, to allow further briefing on the issues of whether the unearned portion of the Retainer constitutes property of the estate and whether an adversary proceeding is warranted.

APPEARANCES REQUIRED.

Party Information

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CONT... Dean L. Springer, Sr. and Tami Jo Springer

Chapter 7

Debtor(s):

Dean L. Springer Sr. Pro Se

Joint Debtor(s):

Tami Jo Springer Pro Se

Movant(s):

Larry D Simons (TR) Represented By
Richard A Marshack
Sarah Cate Hays
D Edward Hays
Laila Masud

Trustee(s):

Larry D Simons (TR) Represented By
Richard A Marshack
Sarah Cate Hays
D Edward Hays
Laila Masud

**United States Bankruptcy Court
Central District of California
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Wednesday, April 17, 2019

Hearing Room 303

2:00 PM

6:13-30133 Nabeel Slaieh

Chapter 7

Adv#: 6:14-01081 Albrecht v. Slaieh

#14.00 Status Conference RE: [1] Adversary case 6:14-ap-01081. Complaint by W.E. Jon Albrecht against Nabeel Slaieh. willful and malicious injury))

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nabeel Slaieh

Represented By
George A Saba - INACTIVE -

Defendant(s):

Nabeel Slaieh

Represented By
Stephen B Mashney
Bruce A Boice

Plaintiff(s):

W E Jon Albrecht

Represented By
William L Miltner
Robert C Harvey

Trustee(s):

Larry D Simons (TR)

Represented By
D Edward Hays
David Wood
Matthew Grimshaw

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6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

#15.00 Status Conference RE: [1] Adversary case 6:13-ap-01171. Complaint by Charles Edward Schrader against Narinder Sangha . willful and malicious injury))

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Ryan F Thomas

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Monday, April 22, 2019

Hearing Room 303

9:30 AM

6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#1.00 CONT Evidentiary hearing re Order to Show Cause Why Jesse Bojorquez, American Business Investments, William Morschauser, Stephen Collias and Continental Capital, LLC, Should Not Be Sanctioned for Facilitating Payment to and/or Receiving Payment for Broker Services in Contravention of this Court's August 11, 2003, Sale Order

From: 1/22/19, 1/23/19

EH__

Docket 242

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan

Stephen Collias

Represented By
Cara J Hagan

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

**United States Bankruptcy Court
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9:30 AM

CONT... Devore Stop A General Partners

Chapter 7

Mohammed Abdizadeh

Pro Se

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, April 23, 2019

Hearing Room 303

9:30 AM

6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#1.00 CONT Evidentiary hearing re Order to Show Cause Why Jesse Bojorquez, American Business Investments, William Morschauser, Stephen Collias and Continental Capital, LLC, Should Not Be Sanctioned for Facilitating Payment to and/or Receiving Payment for Broker Services in Contravention of this Court's August 11, 2003, Sale Order

From: 1/22/19, 4/22/19

EH__

Docket 242

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan

Stephen Collias

Represented By
Cara J Hagan

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

**United States Bankruptcy Court
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Tuesday, April 23, 2019

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9:30 AM

CONT... Devore Stop A General Partners

Chapter 7

Mohammed Abdizadeh

Pro Se

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

6:19-11189 Mitchell C. Nelson

Chapter 7

#1.00 Chapter 7 Trustees Motion for Order: (1) Approving the Sale of Real Property of the Estate Free and Clear of Certain Liens Pursuant to Bankruptcy Code §§ 363(b)(1) and (f), Subject to Overbids, Combined With Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (2) Approving Payment of Real Estate Commission and Other Costs; and (3) Granting Related Relief

EH__

Docket 23

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mitchell C. Nelson

Represented By
Douglas A Plazak

Movant(s):

Lynda T. Bui (TR)

Represented By
Leonard M Shulman
Rika Kido

Trustee(s):

Lynda T. Bui (TR)

Represented By
Leonard M Shulman
Rika Kido

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

6:18-15129 Victoria A Idzardi

Chapter 7

#2.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 45

Tentative Ruling:

4/24/2019

Service: Proper

Opposition: None

The Court is inclined to GRANT Trustee's application for compensation of \$1,000.
GRANT Trustee's application for expenses of \$105.29.

APPEARANCES WAIVED. Trustee to lodge order within seven days. If oral or
written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Victoria A Idzardi

Represented By
Paul Y Lee

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

6:17-18909 Deborah Voorhis Harmon

Chapter 7

#3.00 Motion to Avoid Lien JUDICIAL LIEN with Habitat for Humanity San Bernardino Area, Inc.

Also #4

EH__

Docket 46

Tentative Ruling:

4/24/2019

Service: Proper

Opposition: None

The Court having reviewed the motion, notice being proper, good cause appearing, and noting the lack of any opposition, the Court is inclined to GRANT the motion avoiding the lien of Habitat for Humanity.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Deborah Voorhis Harmon

Represented By
Douglas A Plazak
W. Derek May

Movant(s):

Deborah Voorhis Harmon

Represented By
Douglas A Plazak
W. Derek May

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

CONT... Deborah Voorhis Harmon

Chapter 7

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Brandon J Iskander

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

6:17-18909 Deborah Voorhis Harmon

Chapter 7

#4.00 Motion to Avoid Lien JUDICIAL LIEN with BCS Financial, LLC

Also #3

EH__

Docket 48

Tentative Ruling:

4/24/2019

Service: Proper

Opposition: None

The Court having reviewed the motion, notice being proper, good cause appearing, and noting the lack of any opposition, the Court is inclined to GRANT the motion avoiding the lien of BCS Financial, LLC.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Deborah Voorhis Harmon

Represented By
Douglas A Plazak
W. Derek May

Movant(s):

Deborah Voorhis Harmon

Represented By
Douglas A Plazak
W. Derek May

Trustee(s):

Charles W Daff (TR)

Represented By

**United States Bankruptcy Court
Central District of California
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Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

CONT...

Deborah Voorhis Harmon

Lynda T Bui
Brandon J Iskander

Chapter 7

**United States Bankruptcy Court
Central District of California
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Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

6:16-20298 Donald Sutcliffe

Chapter 7

#5.00 Motion for Order: (1) To Compel Turnover of Property of the Bankruptcy Estate; and (2) Establishing Procedure for Removal of Any Remaining Personal Property Not Removed by Debtor

EH__

Docket 51

***** VACATED *** REASON: ORDER ENTERED 4/23/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donald Sutcliffe

Represented By
Christopher Hewitt

Movant(s):

John P Pringle (TR)

Represented By
D Edward Hays
David Wood
Tinho Mang

Trustee(s):

John P Pringle (TR)

Represented By
D Edward Hays
David Wood
Tinho Mang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

6:16-19947 Melissa Lynn Dixon

Chapter 7

#6.00 CONT Show Cause Hearing RE: [13] Motion For Contempt Violation Discharge Order

From: 1/9/19, 2/27/19, 3/27/19

Also #6.1

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melissa Lynn Dixon

Represented By
Bryant C MacDonald

Movant(s):

Melissa Lynn Dixon

Represented By
Bryant C MacDonald

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

6:16-19947 Melissa Lynn Dixon

Chapter 7

#6.10 Order To Show Cause Why Sanctions Should Not Be Imposed On David McCarthy, Individually And DBA Orange Capital Solutions For Failure To Appear And To Disgorge

Also #6

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melissa Lynn Dixon

Represented By
Bryant C MacDonald

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

6:15-21418 James Lloyd Walker

Chapter 7

#7.00 CONT Order To Show Cause Why The Debtor Should Not Be Held In Contempt
Of The Court's Turnover Order

From: 2/7/19, 2/27/19, 3/27/19

EH__

Docket 138

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth

Trustee(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

6:13-17565 Bertrand Tenke Kengni

Chapter 7

#8.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 71

Tentative Ruling:

4/24/2019

Service: Proper

Opposition: None

The Court is inclined to GRANT Trustee's application for compensation of \$16,580.22. GRANT Trustee's application for expenses of \$451.39.

APPEARANCES WAIVED. Trustee to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Bertrand Tenke Kengni

Represented By
Terrence Fantauzzi

Trustee(s):

Helen R. Frazer (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

6:14-16813 M. A. Tabor

Chapter 7

Adv#: 6:16-01128 Frealy v. Trotochau et al

#9.00 CONT Application and Order for Appearance and Examination

From: 12/5/18, 12/11/18, 12/20/18, 2/27/19, 3/27/19

EH ____

Docket 53

***** VACATED *** REASON: CHAPTER 13 FILED IN 19-13162 SY**

Tentative Ruling:

Based on Trustee's status report and supplement to the status report, and Debtor's voluntary Chapter 13 petition on April 15th, 2019 (Case No. 6:19-bk-13162-SY), the Court GRANTS Trustee's request that this hearing be taken off calendar.

APPEARANCES WAIVED.

Party Information

Debtor(s):

M. A. Tabor

Represented By
Judith Runyon

Defendant(s):

Robin Sherrie Trotochau

Pro Se

Pacific Mortgage Exchange, Inc.

Represented By
Leib M Lerner

Movant(s):

Todd A. Frealy

Represented By
Anthony A Friedman
Lindsey L Smith

Plaintiff(s):

Todd A. Frealy

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, April 24, 2019

Hearing Room 303

11:00 AM

CONT... M. A. Tabor

Chapter 7

Anthony A Friedman
Lindsey L Smith

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman
Lindsey L Smith

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

6:18-15107 Jesus Davila Romero

Chapter 7

Adv#: 6:18-01203 Frealy v. Davila et al

#10.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01203. Complaint by Todd Frealy against Lorena Davila, Jesse L. Davila, Jesus Davila Romero. (Charge To Estate \$350.00). (Attachments: # 1 Adversary Coversheet) Nature of Suit: 91- Declaratory judgment, 11- Recovery of money/property - 542 turnover of property, 31- Approval of sale of property of estate and of a co-owner - 363(h)

From: 12/12/18, 2/6/19

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 4/19/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus Davila Romero

Represented By
Leonard Pena

Defendant(s):

Lorena Davila

Pro Se

Jesse L. Davila

Pro Se

Jesus Davila Romero

Pro Se

Plaintiff(s):

Todd Frealy

Represented By
Carmela Pagay

Trustee(s):

Todd A. Frealy (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

CONT...

Jesus Davila Romero

Carmela Pagay

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01106 Bankers Healthcare Group, LLC v. Johnson

#11.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01106. Complaint by Bankers Healthcare Group, LLC against Vance Zachary Johnson. 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))

From: 7/10/18, 2/20/19

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/3/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Bankers Healthcare Group, LLC

Represented By
Todd L Turoci

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

6:17-19010 Sara Durham

Chapter 7

Adv#: 6:18-01020 SCE Federal Credit Union v. Durham

#12.00 Motion to set aside RE: Entry Of Default Pursuant To Fed. R. Civ. P. 55(c)

Also #13 & #14

EH__

Docket 50

***** VACATED *** REASON: ADVERSARY DISMISSED 4/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sara Durham

Represented By
Edgar P Lombera

Defendant(s):

Sara Durham

Pro Se

Movant(s):

Sara Durham

Pro Se

Plaintiff(s):

SCE Federal Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

6:17-19010 Sara Durham

Chapter 7

Adv#: 6:18-01020 SCE Federal Credit Union v. Durham

#13.00 CONT Motion for Default Judgment

From: 1/30/19, 2/27/19

Also #12 & #14

EH__

Docket 39

***** VACATED *** REASON: ADVERSARY DISMISSED 4/3/19**

Tentative Ruling:

02/27/2019

On October 30, 2017, Sara Durham ("Debtor") filed a Chapter 7 voluntary petition. On January 8, 2018, SCE Federal Credit Union ("Plaintiff") filed a non-dischargeability complaint against Debtor. On February 8, 2018, Debtor filed her answer to the complaint.

On January 8, 2018, SCE Federal Credit Union filed a complaint asserting claims under §§ 523(a)(1), (a)(2), and (a)(14) against Sarah Durham (the "Complaint"). On May 2, 2018, Plaintiff filed a motion to compel Debtor to respond to discovery. The Court granted the motion pursuant to an order entered June 6, 2018 (the "Production Order"). The Production Order further required Debtor to pay \$1,013.50 to Plaintiff if she failed to produce documents. On September 26, 2018, Plaintiff filed a motion to strike the answer of Debtor and for entry of default. On October 29, 2018, the Court granted Plaintiff's Motion and issued an order striking the Debtor's Answer. The Clerk of Court then entered default on October 31, 2018, on request of Plaintiff.

On November 30, 2018, the Plaintiff filed its Motion for Default Judgment (the "Motion"). The initially set hearing was continued as a result of the federal government shutdown. On February 12, 2019, the Debtor filed a response to the Motion. The Debtor asserts, in pertinent part, that she has been receiving mental health treatment for depression, anxiety and stress since September 2017; that she relapsed into use of drugs and alcohol which resulted in her failure to respond to requests from Plaintiff and failure to attend hearings. Debtor further asserts that she

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

CONT... Sara Durham

Chapter 7

has been in an inpatient treatment facility and was set to exit the facility on February 14, 2019. The Debtor requests additional time but does not specify what actions she will undertake to remedy the deficiencies that resulted in the striking of her Answer. The Debtor's response is also not filed under penalty of perjury and attaches no evidence to corroborate the Debtor's assertions.

DISCUSSION

The Court shall not rule on the Motion at this juncture. This Court requires a Memorandum of Points and Authorities in support of any request for entry of default judgment. In particular, where as here, the Plaintiff presumably seeks judgment on the three asserted claims in the Complaint it is insufficient to submit evidence to the Court with no analysis of how the evidence supports entry of judgment on all three claims. The Plaintiff provides no case authority and no analysis of the burdens and elements correspondent to each of the claims in the Complaint.

TENTATIVE RULING

Based on the foregoing, the Court is inclined to CONTINUE the hearing on the Motion for Plaintiff to supplement the Motion with Points and Authorities. Plaintiff to provide the Court with an estimate of time for when the pleadings can be filed.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sara Durham

Represented By
Edgar P Lombera

Defendant(s):

Sara Durham

Pro Se

Movant(s):

SCE Federal Credit Union

Represented By
Bruce P. Needleman

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

CONT... Sara Durham

Chapter 7

Plaintiff(s):

SCE Federal Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

6:17-19010 Sara Durham

Chapter 7

Adv#: 6:18-01020 SCE Federal Credit Union v. Durham

#14.00 CONT Status Conference Re: Complaint by SCE Federal Credit Union against Sara Durham. (14),(14A) priority tax claims)), 62 - Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud

From: 3/21/18, 6/27/18, 8/22/18, 10/24/18, 1/30/19, 2/27/19

Also #12 & #13

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 4/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sara Durham

Represented By
Edgar P Lombera

Defendant(s):

Sara Durham

Pro Se

Plaintiff(s):

SCE Federal Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

6:17-16417 Robert H Mills, III

Chapter 7

Adv#: 6:17-01225 Liquid Capital Exchange, Inc. v. Mills, III

#15.00 CONT Pre-Trial Conference RE: [1] Adversary case 6:17-ap-01225. Complaint by Liquid Capital Exchange, Inc. against Robert Harry Mills Jr.. false pretenses, false representation, actual fraud),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Langley, Christopher)

From: 10/31/18, 1/30/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/17/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert H Mills III

Represented By
Catherine Christiansen

Defendant(s):

Robert H. Mills III

Pro Se

Plaintiff(s):

Liquid Capital Exchange, Inc.

Represented By
Christopher J Langley

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

6:17-13853 Malik Muhammad Asif

Chapter 7

Adv#: 6:17-01197 Itria Ventures, LLC v. Asif et al

#16.00 Pre-Trial Conference RE: [1] Adversary case 6:17-ap-01197. Complaint by Itria Ventures, LLC against Malik Muhammad Asif, Zobia Asif. false pretenses, false representation, actual fraud)) (Chekian, Michael)

From: 11/15/17, 12/6/17, 1/10/18, 6/6/18, 10/3/18, 11/7/18, 2/27/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malik Muhammad Asif

Represented By
Todd L Turoci

Defendant(s):

Malik Muhammad Asif

Represented By
David T Egli

Zobia Asif

Represented By
David T Egli

Joint Debtor(s):

Zobia Asif

Represented By
Todd L Turoci

Plaintiff(s):

Itria Ventures, LLC

Represented By
Michael F Chekian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

CONT... Malik Muhammad Asif

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Represented By
Thomas H Casey

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

6:17-13012 Issa M Musharbash

Chapter 7

Adv#: 6:17-01138 Musharbash et al v. Musharbash et al

#17.00 Order to show cause why complaint should not be dismissed for lack of prosecution

Also #18

EH__

Docket 88

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Issa M Musharbash

Represented By
Brian J Soo-Hoo

Defendant(s):

Issa M Musharbash

Pro Se

Amal Musharbash

Pro Se

Joint Debtor(s):

Amal Issa Musharbash

Represented By
Brian J Soo-Hoo

Plaintiff(s):

Phillip Musharbash

Pro Se

Violette Musharbash

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

6:17-13012 Issa M Musharbash

Chapter 7

Adv#: 6:17-01138 Musharbash et al v. Musharbash et al

#18.00 CONT Pre-Trial RE: [1] Adversary case 6:17-ap-01138. Complaint to Determine Non-Dischargeability of Debt by Phillip Musharbash , Violette Musharbash against Issa M Musharbbash , Amal Musharbbash

From: 3/27/19

Also #17

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Issa M Musharbash

Represented By
Brian J Soo-Hoo

Defendant(s):

Issa M Musharbash

Pro Se

Amal Musharbash

Pro Se

Joint Debtor(s):

Amal Issa Musharbash

Represented By
Brian J Soo-Hoo

Plaintiff(s):

Phillip Musharbash

Pro Se

Violette Musharbash

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, April 24, 2019

Hearing Room 303

2:00 PM

CONT... Issa M Musharbash

Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:13-18779 Rigoberto Baez

Chapter 13

#1.00 CONT Motion For Order Denying Discharge Or Dismissing Case

From: 1/31/19, 2/28/19, 3/14/19, 4/11/19

EH__

Docket 172

Tentative Ruling:

1/31/19

BACKGROUND

On May 17, 2013, Rigoberto Baez ("Debtor") filed a Chapter 13 voluntary petition. On June 25, 2013, Debtor's Chapter 13 plan was confirmed. Debtor's Chapter 13 plan was subsequently amended on two occasions.

On December 6, 2018, Trustee filed a notice of final cure mortgage payment. On December 27, 2018, Wells Fargo Bank N.A. filed a response, stating that Debtor was \$11,338.57 delinquent in post-confirmation payments.

On December 28, 2018, Trustee filed a motion to deny discharge or, in the alternative, dismiss the case. Because Trustee has only provided legal analysis support dismissal of the case, not citing any legal basis to deny a discharge in this situation, the Court will consider the motion as a motion to dismiss. On January 16, 2019, Debtor filed his opposition. The opposition asserts that Debtor disputes Wells Fargo's accounting, and that Debtor will work with Wells Fargo to resolve the situation.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

CONT... Rigoberto Baez

Chapter 13

DISCUSSION

As noted by Trustee, 11 U.S.C. § 1307(c)(6) states:

(c) Except as provided in subsection (f) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including ---

(6) material default by the debtor with respect to a term of a confirmed plan

Trustee asserts that direct payments to Wells Fargo are payments under the plan, and the default in this case is material. Debtor has not provided any contrary legal authority on either point. The Court agrees with Trustee that direct payments to a lender are still considered payments under the plan. *See, e.g., In Matter of Kessley*, 655 Fed. Appx. 242, 244 (5th Cir. 2016); *see also In re Evans*, 543 B.R. 213 (Bankr. E.D. Va. 2016) (collecting cases). The Court also agrees that the post-confirmation default of \$11,338.57 is material, assuming that that figure is accurate.

TENTATIVE RULING

Debtor to apprise the Court of the status of the post-confirmation delinquency and any efforts to resolve the situation with Wells Fargo. Absent resolution, the Court is inclined to GRANT the motion.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

CONT... Rigoberto Baez

Chapter 13

Debtor(s):

Rigoberto Baez

Represented By
Michael Smith
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:14-19319 Edward Jennings Kidwell

Chapter 13

#2.00 Motion for Allowance of Administrative Claim re Eagle Logistics & Warehousing Inc

EH__

Docket 116

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edward Jennings Kidwell

Represented By
Tyson Takeuchi
Scott Kosner

Movant(s):

Eagle Logistics dba Eagle Logistics

Represented By
Lazaro E Fernandez

William Foody

Represented By
Lazaro E Fernandez

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:15-13351 Hector Davalos Nuno and Nanci Tomoye Nuno

Chapter 13

#3.00 Application for Compensation for Additional Fees and Related Expenses in a Pending Chapter 13 Case Subject to a RARA with attached Exhibit A and Proof of Service for Jenny L Doling, Debtor's Attorney, Period: 2/6/2019 to 3/14/2019, Fee: \$1250.00, Expenses: \$0.

EH__

Docket 75

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hector Davalos Nuno

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Nanci Tomoye Nuno

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Hector Davalos Nuno

Represented By
Jenny L Doling
Summer M Shaw

Nanci Tomoye Nuno

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:16-17683 Cresencio Villamayor Irasusta, III and Jennifer P Irasusta

Chapter 13

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

EH__

Docket 56

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cresencio Villamayor Irasusta III

Represented By
Carey C Pickford

Joint Debtor(s):

Jennifer P Irasusta

Represented By
Carey C Pickford

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:16-18372 Gene Ashley Heisser, Jr.

Chapter 13

#5.00 Stipulation Modifying Plan

EH__

Docket 121

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gene Ashley Heisser Jr.

Represented By
Dana Travis

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:17-13599 Maurice Frank Manceau

Chapter 13

#6.00 Application for Compensation of Attorney for Debtor for Additional Fees and Related Expenses in a Pending Chapter 13 Case Subject to a RARA with attached Exhibits and Proof of Service for Jenny L Doling, Debtor's Attorney, Period: 12/5/2018 to 3/6/2019, Fee: \$930.00, Expenses: \$0.

EH__

Docket 99

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maurice Frank Manceau

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Maurice Frank Manceau

Represented By
Jenny L Doling
Jenny L Doling
Summer M Shaw
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:17-19614 Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

#7.00 CONT Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments

From: 4/11/19

EH__

Docket 67

***** VACATED *** REASON: ORDER ENTERED 4/19/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Joint Debtor(s):

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Movant(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:17-19892 Lena Dolores Wade

Chapter 13

#8.00 Application for Compensation of Attorney for Debtor for Additional Fees and Related Expenses in a Pending Chapter 13 Case Subject to a RARA with attached Exhibit A and Proof of Service for Jenny L Doling, Debtor's Attorney, Period: 1/15/2018 to 10/24/2018, Fee: \$1630.00, Expenses: \$0.

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lena Dolores Wade

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Lena Dolores Wade

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:17-20487 Ann Marie Smith

Chapter 13

#9.00 Stipulation Modifying Plan

EH__

Docket 74

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ann Marie Smith

Represented By
Brian J Soo-Hoo

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:18-12170 Pamela Ann Harris

Chapter 13

#10.00 Trustee's Motion to Dismiss Case

Also #11

EH__

Docket 59

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/23/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pamela Ann Harris

Represented By
Halli B Heston

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:18-12170 Pamela Ann Harris

Chapter 13

#11.00 Application for Compensation of Attorney for Debtor for Additional Fees and Related Expenses for Halli B Heston, Debtor's Attorney, Period: 6/15/2018 to 3/7/2019, Fee: \$2,128.50, Expenses: \$108.34.

Also #10

EH__

Docket 57

Tentative Ruling:

4/25/2019

Service: Proper

Opposition: Yes

The Court has reviewed Applicant's requested compensation for fees in the amount of \$2,128.50 and finds it excessive in light of the lack of complexity of the relief from stay motion and the opposition. The Court is thus inclined to grant Applicant's request for compensation for fees in the reduced amount of \$1,728.50.

The Court has also reviewed Applicant's requested compensation for expenses in the amount of \$108.34 and finds it generally reasonable.

The Court is inclined to GRANT Applicant's request for fees in the reduced amount of \$1,728.50, and expenses in the amount of \$108.34, for a total of \$1,836.84.

APPEARANCES REQUIRED. Movant may not appear and will be deemed to submit to the tentative.

Party Information

Debtor(s):

Pamela Ann Harris

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

CONT... Pamela Ann Harris

Chapter 13

Halli B Heston

Movant(s):

Pamela Ann Harris

Represented By
Halli B Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:18-16811 Donna Roberto

Chapter 13

#12.00 Application for Compensation , with Notice of Hearing, and proof of service for Todd L Turoci, Debtor's Attorney, Period: 8/13/2018 to 2/28/2019, Fee: \$25,710.00, Expenses: \$15.15.

CASE DISMISSED 3/28/19

EH__

Docket 59

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto	Pro Se
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Movant(s):

Donna Roberto	Pro Se
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Trustee(s):

Rod Danielson (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:18-17003 Jose Gacho Ruidera, Jr. and Maria Genalyn Raneses

Chapter 13

#13.00 Application for Compensation for Dana Travis, Debtor's Attorney, Period: to, Fee: \$950.00, Expenses: \$.0.00

EH__

Docket 50

Tentative Ruling:

4/25/2019

Service: Proper

Opposition: Yes

Under 11 U.S.C. § 330(a)(3)(III) the benefit or necessity of services to the estate is determined in light of their benefit at the time that the services were provided. At the time that Debtors filed their motion through Applicant the only evidence they had that the statute of limitations had passed on the claim was the Debtors' declaration as to when they had last made payment. This is clearly insufficient to meet the burden of proof, even when viewed at the time of the filing of the objection. Debtors alleged that the claim was suspicious, as the date of last transaction on the account was exactly one day within the four-year statute of limitations for credit card debt. However, even in light of this, the objection was still deficient. As such, the Court finds that the service to the estate for which compensation for fees is being requested served no benefit to the estate at the time of filing.

The Court is inclined to DENY Applicant's request for compensation in the amount of \$950.

APPEARANCES REQUIRED, or Movant may not appear and be deemed to consent to denial

Party Information

Debtor(s):

Jose Gacho Ruidera Jr.

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

**CONT... Jose Gacho Ruidera, Jr. and Maria Genalyn Raneses
Dana Travis**

Chapter 13

Joint Debtor(s):

Maria Genalyn Raneses Ruidera	Represented By Dana Travis
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Movant(s):

Jose Gacho Ruidera Jr.	Represented By Dana Travis
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Maria Genalyn Raneses Ruidera	Represented By Dana Travis
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Trustee(s):

Rod Danielson (TR)	Pro Se
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United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#14.00 CONT Motion Re: Objection to Claim Number 3 by Claimant IRS

From: 1/10/19, 2/7/19, 3/28/19, 4/11/19

Also #15

EH__

Docket 28

*** VACATED *** REASON: WITHDRAWAL FILED 4/19/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Movant(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#15.00 CONT Confirmation of Chapter 13 Plan

From: 12/20/18, 1/10/19, 2/7/19, 3/28/19, 4/11/19

Also #14

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#16.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/7/19, 2/28/19, 3/28/19, 4/11/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:18-20200 Denise Cherie Darden

Chapter 13

#17.00 CONT Confirmation of Chapter 13 Plan

From: 2/7/19, 2/28/19, 3/28/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denise Cherie Darden

Represented By
Julie Philippi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:18-20238 Efrain Padron

Chapter 13

#18.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/28/19, 3/14/19, 4/11/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Efrain Padron

Represented By
Patricia A Mireles

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:18-20296 Daniel Lee Crump

Chapter 13

#19.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/28/19, 3/14/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Lee Crump

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10047 Jose Antonio Contreras and Mayra Lorena Contreras

Chapter 13

#20.00 CONT Confirmation of Chapter 13 Plan

From: 3/14/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Antonio Contreras

Represented By
A Mina Tran

Joint Debtor(s):

Mayra Lorena Contreras

Represented By
A Mina Tran

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10084 Sandra Luz Torres

Chapter 13

#21.00 Motion to vacate dismissal

EH__

Docket 40

Tentative Ruling:

4/25/2019

SERVICE: Improper

OPPOSITION: YES

The Court is inclined to DENY this motion under FRCP 60(b).

APPEARANCES REQUIRED

Party Information

Debtor(s):

Sandra Luz Torres

Represented By
Jason B Cruz

Movant(s):

Sandra Luz Torres

Represented By
Jason B Cruz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10445 Abidan Aceves and Cindy Aceves

Chapter 13

#22.00 CONT Confirmation of Chapter 13 Plan

From: 3/28/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Abidan Aceves

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Cindy Aceves

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10564 Fermisa Ong Yang

Chapter 13

#23.00 CONT Confirmation of Chapter 13 Plan

From: 4/11/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Fermisa Ong Yang

Represented By
Ivan Trahan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10655 Alexander Joo

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/15/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alexander Joo

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10657 Jose Luis Garcia

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/15/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Luis Garcia

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10669 Michael Anthony Delgado, III

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Anthony Delgado III

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10684 Rodrigo Flores Saavedra and Juana Garcia De Flores

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rodrigo Flores Saavedra

Represented By
James Geoffrey Beirne

Joint Debtor(s):

Juana Garcia De Flores

Represented By
James Geoffrey Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10687 Roslyn Marie Davis

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 3/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roslyn Marie Davis

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10742 Joshua Michael Thomson and Katherine Naomi Thomson

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Michael Thomson

Represented By
Edward G Topolski

Joint Debtor(s):

Katherine Naomi Thomson

Represented By
Edward G Topolski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10773 Stacie Lynn Tellez

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stacie Lynn Tellez

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10821 Gregory Johnson

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gregory Johnson

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10822 Jason Leroy Albaugh and Jamie Lean Albaugh

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jason Leroy Albaugh

Represented By
Gregory M Shanfeld

Joint Debtor(s):

Jamie Lean Albaugh

Represented By
Gregory M Shanfeld

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10849 Vincent James Carabba

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vincent James Carabba

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10853 Jo Dee Bennett

Chapter 7

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
3/21/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jo Dee Bennett

Pro Se

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10903 Anita Mojica Rodriguez

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/15/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anita Mojica Rodriguez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10922 Carlos G Rodriguez and Rita S Rodriguez

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlos G Rodriguez

Represented By
Christopher Hewitt

Joint Debtor(s):

Rita S Rodriguez

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10932 Malta Centeno Lambert

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malta Centeno Lambert

Represented By
Yelena Gurevich

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10934 Jorge Ramirez and Evelia Ramirez

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Ramirez

Represented By
Christopher J Langley

Joint Debtor(s):

Evelia Ramirez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10939 Jennifer Meador

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 2/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Meador

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10956 Anthony Santiago Ramos and Lena Marie Ramos

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony Santiago Ramos

Represented By
Kristin R Lamar

Joint Debtor(s):

Lena Marie Ramos

Represented By
Kristin R Lamar

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10989 Steven Richard Bannow and Kristy Dale Bannow

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Steven Richard Bannow

Represented By
Bryant C MacDonald

Joint Debtor(s):

Kristy Dale Bannow

Represented By
Bryant C MacDonald

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-10990 David Sandoval and Mary Celine Sandoval

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Sandoval

Represented By
Bryant C MacDonald

Joint Debtor(s):

Mary Celine Sandoval

Represented By
Bryant C MacDonald

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-11017 Nora Munoz

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 3/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nora Munoz

Represented By
William Radcliffe

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-11023 Keary A. Harris and Kimberly H. Olson-Harris

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Keary A. Harris

Represented By
Patricia M Ashcraft

Joint Debtor(s):

Kimberly H. Olson-Harris

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-11041 Caleb J. Bellot and Mandle Lynn Bellot

Chapter 13

#45.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Caleb J. Bellot

Represented By
Daniel King

Joint Debtor(s):

Mandle Lynn Bellot

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-11371 Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

#46.00 Show Order To Show Cause Why Lionel Giron Should Not Be Sanctioned In
The Amount Of \$1000

Also #47

EH__

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Warren Alan Hall

Represented By
Lionel E Giron

Joint Debtor(s):

Kelly Suzanne Hall

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-11371 Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

#47.00 Motion to Disallow Claims Re: Proof of Claim No. 1

Also #46

EH__

Docket 35

Tentative Ruling:

4/25/2019

Service: Proper

Opposition: None

The Court is inclined to GRANT the motion, DISALLOWING Claim 1 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Warren Alan Hall

Represented By
Lionel E Giron

Joint Debtor(s):

Kelly Suzanne Hall

Represented By
Lionel E Giron

Movant(s):

Warren Alan Hall

Represented By
Lionel E Giron

Kelly Suzanne Hall

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

CONT... Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-11503 Juan Manuel Andrade

Chapter 13

#48.00 Motion Debtor's ExParte Motion to Vacate Dismissal and Reinstate Chapter 13 Case

EH__

Docket 15

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Manuel Andrade

Represented By
James D Cuzzolina

Movant(s):

Juan Manuel Andrade

Represented By
James D Cuzzolina
James D Cuzzolina

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-11710 Heather Ann Pessoa Bond

Chapter 13

#49.00 Motion for Order Determining Value of Collateral [11 U.S.C. § 506(a), FRBP 3012]: 2015 Chrysler 200

EH__

Docket 25

Tentative Ruling:

According to the court in *In re Morales*, 387 B.R. 36 (Bankr.C.D.Cal.2008), the retail values, and not the private party values, are the appropriate starting points for property valuation because the text of 11 U.S.C. § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Kelly Blue Book report identifying the private party value of the Chrysler 200. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

4/25/2019

SERVICE: PROPER

OPPOSITION: NONE

The Court is inclined to CONTINUE the hearings for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

Movant(s):

Heather Ann Pessoa Bond

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

CONT... Heather Ann Pessoa Bond

Chapter 13

Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-12218 Keionna Marie Pitts

Chapter 13

#50.00 Motion to Avoid Junior Lien with Specialized Loan Servicing, LLC

EH__

Docket 12

Tentative Ruling:

4/25/2019

SERVICE: PROPER

OPPOSITION: NONE

The Court having reviewed the motion, and noting the consent of MERS, is inclined to GRANT the motion, avoiding the junior lien of MERS upon completion of the Chapter 13 plan.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Keionna Marie Pitts

Represented By
Dana Travis

Movant(s):

Keionna Marie Pitts

Represented By
Dana Travis
Dana Travis
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

6:19-12398 Jerry Melendrez and Laura Therese Melendrez

Chapter 13

#51.00 Motion for Setting Property Value

EH__

Docket 13

Tentative Ruling:

4/25/2019

SERVICE: PROPER

OPPOSITION: NONE

The Court is inclined to GRANT Debtor's motion to value their 2013 Dodge Avenger at \$5,470.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jerry Melendrez

Represented By
Todd L Turoci

Joint Debtor(s):

Laura Therese Melendrez

Represented By
Todd L Turoci

Movant(s):

Jerry Melendrez

Represented By
Todd L Turoci

Laura Therese Melendrez

Represented By
Todd L Turoci

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:00 AM

CONT... Jerry Melendrez and Laura Therese Melendrez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:14-17280 Charles J. Smith

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH__

Docket 129

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles J. Smith

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:14-18349 Fabiola Adame

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 214

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Fabiola Adame

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:15-21548 Chi Kan Yu

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH__

Docket 162

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/19/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Chi Kan Yu

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:15-22033 Shyla L. Montgomery

Chapter 13

#55.00 Trustee's Motion to Dismiss Case

EH__

Docket 100

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/8/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shyla L. Montgomery

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:15-22294 Jonathan William Nicastro

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 161

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jonathan William Nicastro

Represented By
Rabin J Pournazarian

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:16-12191 Valicia LaShawn Fennell

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 98

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Valicia LaShawn Fennell

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:16-14440 Michael Douglas Guerino and Xochitl Rodriguez Guerino

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 88

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Douglas Guerino

Represented By
James D Cuzzolina

Joint Debtor(s):

Xochitl Rodriguez Guerino

Represented By
James D Cuzzolina

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:16-17215 Carmen Saucedo

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carmen Saucedo

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:16-20925 Reynauldo J Pennywell and Joyce D Pennywell

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reynauldo J Pennywell

Represented By
Michael Smith
Sundee M Teeple

Joint Debtor(s):

Joyce D Pennywell

Represented By
Michael Smith
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:16-21234 Frank A Horzen and Barbara A Horzen

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH__

Docket 118

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank A Horzen

Represented By
Paul Y Lee

Joint Debtor(s):

Barbara A Horzen

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-10082 Francisco R Palacios

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH__

Docket 189

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Francisco R Palacios

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-10667 Louis Gutierrez

Chapter 13

#63.00 Trustee's Motion to Dismiss Case

EH__

Docket 81

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Louis Gutierrez

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-10787 Willie J Brooks

Chapter 13

#64.00 Trustee's Motion to Dismiss Case re Delinquency

Also #65

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Willie J Brooks

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-10787 Willie J Brooks

Chapter 13

#65.00 Trustee's Motion to Dismiss Case re Infeasibility of Plan

Also #64

EH__

Docket 49

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Willie J Brooks

Represented By
Kevin Tang

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-10811 Manuel Huertas

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Manuel Huertas

Represented By
Marcella Lucente

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-11760 Jose Tinoco and Monica Tinoco

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Tinoco

Represented By
Juanita V Miller

Joint Debtor(s):

Monica Tinoco

Represented By
Juanita V Miller

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-11901 Jose Camacho Payan and Erika Vanessa Payan

Chapter 13

#68.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Camacho Payan

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Erika Vanessa Payan

Represented By
Ramiro Flores Munoz

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-15122 Keith F Keating

Chapter 13

#69.00 Trustee's Motion to Dismiss Case

EH__

Docket 52

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/19/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Keith F Keating

Represented By
Sundee M Teeple
Craig K Streed

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-15524 Thanaa Victor Fransis

Chapter 13

#70.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/24/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Thanaa Victor Fransis

Represented By
Rabin J Pournazarian

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-15662 Jemill M Humphrey

Chapter 13

#71.00 Trustee's Motion to Dismiss Case

EH__

Docket 65

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/24/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jemill M Humphrey

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-15893 Joseph Manuel Ruiz and Shannon Elizabeth Ruiz

Chapter 13

#72.00 Trustee's Motion to Dismiss Case

EH__

Docket 46

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Manuel Ruiz

Represented By
April E Roberts

Joint Debtor(s):

Shannon Elizabeth Ruiz

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-17316 Luis Fernando Montoya, Jr.

Chapter 13

#73.00 Trustee's Motion to Dismiss Case

EH__

Docket 80

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Fernando Montoya Jr.

Represented By
Anthony B Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-17589 Ryan Patrick McHugh and Jennifer Lynne McHugh

Chapter 13

#74.00 CONT Trustee's Motion to Dismiss Case

From: 3/14/19, 4/11/19

EH__

Docket 69

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Joint Debtor(s):

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-17806 Gerald Curtis Collins and Valerie Cecelia Collins

Chapter 13

#75.00 CONT Trustee's Motion to Dismiss Case

From: 3/28/19

EH__

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gerald Curtis Collins

Represented By
M. Wayne Tucker

Joint Debtor(s):

Valerie Cecelia Collins

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:17-19890 Katrina Renee McDowell

Chapter 13

#76.00 Trustee's Motion to Dismiss Case

EH__

Docket 57

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Katrina Renee McDowell

Represented By
Jenny L Doling

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-10112 Eddie Garcia and Martha Garcia

Chapter 13

#77.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/19

EH__

Docket 56

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddie Garcia

Represented By
Paul Y Lee

Joint Debtor(s):

Martha Garcia

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-10636 Alejandro J. Casillas and Patricia Casillas

Chapter 13

#78.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/19

EH__

Docket 39

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/23/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alejandro J. Casillas

Represented By
Tina H Trinh

Joint Debtor(s):

Patricia Casillas

Represented By
Tina H Trinh

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-11403 Dony M Portillo and Raquel A Portillo

Chapter 13

#79.00 Trustee's Motion to Dismiss Case

EH__

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dony M Portillo

Represented By
Paul Y Lee

Joint Debtor(s):

Raquel A Portillo

Represented By
Paul Y Lee
Andrea Liddick

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-12022 Maribel M Vasquez

Chapter 13

#80.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maribel M Vasquez

Represented By
Rebecca Tomilowitz

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-12447 Justina Renteria

Chapter 13

#81.00 CONT Trustee's Motion to Dismiss Case

From: 3/28/19

EH__

Docket 38

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/23/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Justina Renteria

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-13163 Michael D Hayden, II and Joanna Queen Hayden

Chapter 13

#82.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael D Hayden II

Represented By
Sunita N Sood
Seema N Sood

Joint Debtor(s):

Joanna Queen Hayden

Represented By
Sunita N Sood
Seema N Sood

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-13483 JUANITA M ROMERO

Chapter 13

#83.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

JUANITA M ROMERO

Represented By
Emilia N McAfee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-15192 Everett T Cain

Chapter 13

#84.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Everett T Cain

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-16178 Eriberto A. Sandoval

Chapter 13

#85.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eriberto A. Sandoval

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-16680 Tanisha S. Santee

Chapter 13

#86.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tanisha S. Santee

Represented By
Keith Q Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-16694 Cynthia M Gonzalez and Guadalupe Siddiqui

Chapter 13

#87.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cynthia M Gonzalez

Represented By
Paul Y Lee

Joint Debtor(s):

Guadalupe Siddiqui

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-16983 Lakendra Johnson

Chapter 13

#88.00 Trustee's Motion to Dismiss Case

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lakendra Johnson

Represented By
Neil R Hedtke

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-16996 Gabriel Cruz

Chapter 13

#89.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gabriel Cruz

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-17307 Rita Denise Pappalardo and Steven Joseph Pappalardo

Chapter 13

#90.00 Trustee's Motion to Dismiss Case

EH__

Docket 49

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/23/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rita Denise Pappalardo

Represented By
Aaron Lloyd

Joint Debtor(s):

Steven Joseph Pappalardo

Represented By
Aaron Lloyd

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-17597 David Meisland

Chapter 13

#91.00 CONT Trustee's Motion to Dismiss Case

From: 3/28/19

EH__

Docket 36

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/24/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Meisland

Represented By
Nima S Vokshori

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-17676 Patricia Ellen Bond-Gomez

Chapter 13

#92.00 CONT Trustee's Motion to Dismiss Case

From: 3/28/19

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Ellen Bond-Gomez

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-17784 David John Stoykovich, Jr. and Merlina Lynn Burton

Chapter 13

#93.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/18

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David John Stoykovich Jr.

Represented By
Todd L Turoci

Joint Debtor(s):

Merlina Lynn Burton

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-18739 Heather Gibson

Chapter 13

#94.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/24/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heather Gibson

Represented By
Natalie A Alvarado

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-19011 Riley Oneill Adamson

Chapter 13

#95.00 Trustee's Motion to Dismiss Case

EH__

Docket 26

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Riley Oneill Adamson

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-19044 Kimberly Ida McGee Hager

Chapter 13

#96.00 Trustee's Motion to Dismiss Case

EH__

Docket 23

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kimberly Ida McGee Hager

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-19358 Erik A Morales

Chapter 13

#97.00 Trustee's Motion to Dismiss Case

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Erik A Morales

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, April 25, 2019

Hearing Room 303

11:01 AM

6:18-19781 Adolfo Nabor

Chapter 13

#98.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Adolfo Nabor

Represented By
Jaime G Monteclaro

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, April 29, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#1.00 Emergency motion for Authorization to Use Cash Collateral and Provide Adequate Protection

EH__

Docket 13

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, April 29, 2019

Hearing Room 303

2:00 PM

6:19-13132 RIVERSIDE ACE HARDWARE INC.

Chapter 11

#2.00 Emergency motion for Authorization to Use Cash Collateral and Provide Adequate Protection

EH__

Docket 10

Party Information

Debtor(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, April 29, 2019

Hearing Room 303

2:00 PM

6:19-13130 9 FINGERS INC

Chapter 11

#3.00 Emergency motion for Authorization to Use Cash Collateral and Provide Adequate Protection

EH__

Docket 12

Party Information

Debtor(s):

9 FINGERS INC

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, April 29, 2019

Hearing Room 303

2:00 PM

6:19-13133 WILDOMAR ACE HARDWARE INC.

Chapter 11

#4.00 Emergency motion for Authorization to Use Cash Collateral and Provide Adequate Protection

EH__

Docket 10

Party Information

Debtor(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-13241 Tonette Sherie Bell

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 23608 Blooming Meadow Rd Moreno Valley, CA 92557

MOVANT: ROBERT MAY

EH__

Docket 7

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request for relief pursuant to § 362(d)(4) based on multiple bankruptcy filings affecting the property and because the mailing list filed by Debtor appears to list Movant as the only creditor. GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 11. GRANT request under ¶ 9 "upon recording of a copy of this order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law." DENY request under ¶ 7 for lack of cause shown.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Tonette Sherie Bell

Pro Se

Movant(s):

Robert May

Represented By
Barry L O'Connor

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Tonette Sherie Bell

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-13055 Christopher Mata

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 248 Lauren Ct., Lake Elsinore, CA 92530

MOVANT: 2018-2 IH BORROWER LP

EH__

Docket 8

***** VACATED *** REASON: WITHDRAWAL OF MOTION 4/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Mata

Pro Se

Movant(s):

2018-2 IH Borrower LP

Represented By
Scott Andrews

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-12871 Roger Adams

Chapter 7

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 3207 Crystal Lake Court, Ontario, Ca

MOVANT: PLAN RIVER INVESTMENT, LLC

CASE DISMISSED 4/23/19

EH__

Docket 7

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (4). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 11. GRANT request under ¶ 9 "upon recording of a copy of this order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law." DENY request under ¶ 7 for lack of cause shown.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Roger Adams

Pro Se

Movant(s):

Plan River Investments LLC

Represented By
Helen G Long

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Roger Adams

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-12755 Salvador Caridad Rodriguez

Chapter 13

#4.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property: 29212 Mesa Crest Way, Menifee, CA 92584

MOVANT: SALVADOR CARIDAD RODRIGUEZ

EH__

Docket 13

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court, having reviewed the motion, finds the evidence submitted in support of the motion, in the form of a declaration of Debtor, to be lacking the detail and specificity necessary to rebut the statutory presumption that the case is filed in bad faith. Specifically, the Court notes that 11 U.S.C. § 363(c)(3)(C) requires that the presumption of bad faith be rebutted by "clean and convincing" evidence; Debtor's declaration is cursory and devoid of details.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Salvador Caridad Rodriguez

Represented By
Steven A Alpert

Movant(s):

Salvador Caridad Rodriguez

Represented By
Steven A Alpert

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Salvador Caridad Rodriguez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-12664 Donna L Hillard

Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Toyota Camry LE Sedan

MOVANT: THE GOLDEN 1 CREDIT UNION

EH__

Docket 8

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Donna L Hillard

Represented By
Jenny L Doling

Movant(s):

THE GOLDEN ONE CREDIT

Represented By
Mirco J Haag

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-12467 Sheila Marie Malone

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 33249 Newbury Street, Yucaipa, CA 92399

MOVANT: WELLS FARGO BANK, N.A.

CASE DISMISSED 4/15/19

EH__

Docket 11

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

Noting that the instant case was dismissed on April 15, 2019, the Court is inclined to GRANT the request under ¶ 4, confirming that the automatic stay is not in effect. The Court is also inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(4) because (1) the instant case is the third bankruptcy filing by the borrowers which was summarily dismissed in the last seven months; and (2) Movant is the only creditor listed on the schedules. The Court is inclined to DENY all remaining requests for relief as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sheila Marie Malone

Pro Se

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Dane W Exnowski

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Sheila Marie Malone

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-12319 Jaime Urena and Jennifer Urena

Chapter 7

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA ACCORD, VIN: 1HGC R2F3 3HA0 87464

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

Docket 10

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jaime Urena

Represented By
James Geoffrey Beirne

Joint Debtor(s):

Jennifer Urena

Represented By
James Geoffrey Beirne

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Jaime Urena and Jennifer Urena

Chapter 7

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-11992 Pablo Cornejo

Chapter 13

#8.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 31945 Daniel Way, Temecula, CA 92591

MOVANT: PABLO CORNEJO

EH__

Docket 12

Tentative Ruling:

4/30/2019

Service is Proper

Opposition: None

The Court, having reviewed the motion, noting the lack of opposition, service being proper and good cause appearing, is inclined to GRANT the motion, IMPOSING the automatic stay as to Shellpoint Mortgage Servicing.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Pablo Cornejo

Represented By
Daniel King

Movant(s):

Pablo Cornejo

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-11952 Rheanna Leigh Frey

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 41940 Whittier Ave., Hemet, CA 92544

MOVANT: PENNYMAC LOAN SERVICES, LLC

EH__

Docket 9

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Rheanna Leigh Frey	Pro Se
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Movant(s):

PennyMac Loan Services, LLC	Represented By Christina J O
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Trustee(s):

Steven M Speier (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-11851 Richard Mills, Jr. and April Evette Humphrey

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 1930 W College Avenue, #111, San Bernardino, CA

MOVANT: BROADSTONE INVESTORS LLC

EH__

Docket 15

Tentative Ruling:

4/30/2019

Service is Proper

Opposition: None

The instant bankruptcy case was filed on March 7, 2019. Postpetition, Movant caused a notice to quit to be served on Debtor, and also commenced an unlawful detainer proceeding. The Court notes that in multiple sections of the instant motion, Movant has misrepresented the date that the unlawful detainer was filed, incorrectly stating that it was filed on March 2 (prepetition), when the attached exhibits indicate that the action was filed on March 27 (postpetition). Because both the notice to quit and the unlawful detainer action were executed in violation of the automatic stay, these acts are void and of no effect; the void acts cannot serve as the basis for relief from the automatic stay. Furthermore, because the time to assume or reject the lease pursuant to 11 U.S.C. § 365 has not yet expired, a postpetition breach of the lease cannot constitute grounds for relief from stay. For all of the above reasons, the Court is inclined to DENY the motion in its entirety.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Richard Mills Jr.

Represented By
Nicholas M Wajda

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Richard Mills, Jr. and April Evette Humphrey

Chapter 7

Joint Debtor(s):

April Evette Humphrey

Represented By
Nicholas M Wajda

Movant(s):

Broadstone Investors LLC

Represented By
Helen G Long

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-11436 Timothy Lee Turner

Chapter 7

#11.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 13746 Coldwater Ct Corona, CA 92880

MOVANT: QIANG QUO, LING GUO

From: 4/16/19

EH__

Docket 13

Tentative Ruling:

April 16, 2019

Service: Proper

Opposition: None

Movant's motion for relief from the stay under 11 U.S.C. § 362(d)(1) is GRANTED. Movant's request for waiver of FBRP 4001(a)(3) is GRANTED. Movant's request at ¶ 2 to enforce remedies to obtain possession of the property is GRANTED.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Timothy Lee Turner

Pro Se

Movant(s):

Guo, Ling Qiang

Represented By
Barry L O'Connor

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Timothy Lee Turner

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-11136 Jesus Ruben De Lara, Jr

Chapter 7

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2016 VOLKSWAGEN JETTA SEDAN

MOVANT: VW CREDIT INC

EH__

Docket 11

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jesus Ruben De Lara Jr

Represented By
Edgar P Lombera

Movant(s):

VW CREDIT, INC.

Represented By
Darren J Devlin

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:19-10627 Ricky Dean Moore

Chapter 7

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Ford Econo Cutaway, VIN: 1FDWE3FL8GDC45612

MOVANT: FORD MOTOR CREDIT COMPANY LLC

EH__

Docket 11

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ricky Dean Moore

Represented By
Alon Darvish

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Ricky Dean Moore

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-19956 Herman A. Wendorff and Monica Wendorff

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Toyota Corolla

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH__

Docket 36

***** VACATED *** REASON: ORDER ENTERED 4/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Herman A. Wendorff

Represented By
Daniel King

Joint Debtor(s):

Monica Wendorff

Represented By
Daniel King

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-19494 Rachel Ann Sullivan

Chapter 13

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1807 Church St Redlands, CA 92374

MOVANT: CHAMPION MORTGAGE COMPANY (NATIONSTAR MORTGAGE LLC, DBA)

EH__

Docket 28

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions and payment of property taxes.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Rachel Ann Sullivan

Represented By
Chris A Mullen

Movant(s):

Champion Mortgage Company, et al

Represented By
Asya Landa

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-19044 Kimberly Ida McGee Hager

Chapter 13

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 32392 Scandia Drive, Running Springs, California 92382

MOVANT: PENNYMAC LOAN SERVICES LLC

EH__

Docket 26

Tentative Ruling:

4/30/2019

Service is Proper

Opposition: Yes

Parties to apprise Court of status of arrears and adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Kimberly Ida McGee Hager

Represented By
Chris A Mullen

Movant(s):

PennyMac Loan Services, LLC

Represented By
Robert P Zahradka

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-18869 Arturo Garcia, Jr.

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15527 Villa Del Rio Road, California 92337

MOVANT: BANK OF AMERICA N.A.

EH__

Docket 29

Tentative Ruling:

4/30/2019

Service is Proper as to Debtor
Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Arturo Garcia Jr.

Represented By
Christopher J Langley

Movant(s):

Bank of America, N.A.

Represented By
Asya Landa
Diana Torres-Brito

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-17597 David Meisland

Chapter 13

#18.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 26818 Montseratt Court, Murrieta, California 92563

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

From: 3/26/19

EH__

Docket 39

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David Meisland

Represented By
Nima S Vokshori

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-15131 Arcy B Gonzales and Margarita B Gonzales

Chapter 13

#19.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 53194 Monaco Street, Lake Elsinore, CA 92532

MOVANT: THE BANK OF NEW YORK MELLON

From: 4/16/19

EH__

Docket 42

***** VACATED *** REASON: ORDER ENTERED 4/29/19**

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Arcy B Gonzales

Represented By
Laleh Ensafi

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Arcy B Gonzales and Margarita B Gonzales

Chapter 13

Joint Debtor(s):

Margarita B Gonzales

Represented By
Laleh Ensafi

Movant(s):

The Bank of New York Mellon

Represented By
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-15051 Rueben Anthony Castro and Adrian Marie Castro

Chapter 7

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7437 Camarilla Ave, Yucca Valley, California 92284

MOVANT: PENNYMAC LOAN SERVICES, LLC

EH__

Docket 54

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Rueben Anthony Castro

Represented By
Nicholas M Wajda

Joint Debtor(s):

Adrian Marie Castro

Represented By
Nicholas M Wajda

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Rueben Anthony Castro and Adrian Marie Castro

Chapter 7

Movant(s):

PennyMac Loan Services, LLC

Represented By
Robert P Zahradka

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-14867 Richard Cornelius and Naomi Rodriguez-Cornelius

Chapter 13

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Hyundai Santa Fe, VIN: 5XYZW3LA0DG021426

MOVANT:WELLS FARGO BANK N.A.

EH__

Docket 38

***** VACATED *** REASON: ORDER ENTERED 4/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Cornelius

Represented By
Paul Y Lee

Joint Debtor(s):

Naomi Rodriguez-Cornelius

Represented By
Paul Y Lee

Movant(s):

Wells Fargo Bank, N.A. d/b/a Wells

Represented By
Jennifer H Wang
Sheryl K Ith

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-14278 David Bruce Bremer and Tina Marie Bremer

Chapter 13

#22.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15522 Garnet Ct, Fontana, CA 92337

MOVANT: BANK OF AMERICA, N.A.

EH__

Docket 61

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/5/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Bruce Bremer

Represented By
Paul Y Lee

Joint Debtor(s):

Tina Marie Bremer

Represented By
Paul Y Lee

Movant(s):

Bank of America, N.A.

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-13793 Michael Moreno and Azucena Moreno

Chapter 13

#23.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 JEEP GRAND CHEROKEE, VIN:1C4R JECG 5GC3 44961

MOVANT: MECHANICS BANK

From: 4/16/19

EH__

Docket 52

***** VACATED *** REASON: ORDER ENTERED 4/19/19**

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Moreno

Represented By
Andrew Nguyen

Joint Debtor(s):

Azucena Moreno

Represented By
Andrew Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Michael Moreno and Azucena Moreno

Chapter 13

Movant(s):

MECHANICS BANK

Represented By
Vincent V Frounjian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-13481 Rorye James Mosley, Sr.

Chapter 13

#24.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Toyota Tundra

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH__

Docket 48

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). DENY request for relief from § 362(d)(2) stay for lack of cause shown. GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Rorye James Mosley Sr.

Represented By
Brian J Soo-Hoo

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Rorye James Mosley, Sr.

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:18-13292 Bernice Hernandez Antunez

Chapter 13

#25.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2180 Cordillera Avenue, Colton, CA 92324

MOVANT: U.S. BANK NATIONAL ASSOCIATION

From: 4/16/19

EH__

Docket 25

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from the co-debtor stay under § 1301(a). GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Bernice Hernandez Antunez

Represented By
Daniel King

Movant(s):

U.S. Bank National Association, as

Represented By

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Bernice Hernandez Antunez

Nancy L Lee

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:17-18786 Edgar Raymond Domingue, Sr.

Chapter 13

#26.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4424 San Jose St, 13, Montclair, CA 91763-1756

MOVANT: CITIBANK, N.A.

EH__

Docket 44

*** VACATED *** REASON: ORDER ENTERED 4/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edgar Raymond Domingue Sr.

Represented By
Gregory M Shanfeld

Movant(s):

Citibank, N.A.

Represented By
Robert P Zahradka

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:17-17402 Thomas Lee Abercrombie and Rebecca Anne Abercrombie Chapter 13

#27.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2009 Honda Odyssey EX-L Minivan 4D

MOVANT: BALBOA THRIFT & LOAN

From: 3/26/19

EH__

Docket 88

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Thomas Lee Abercrombie

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Rebecca Anne Abercrombie

Represented By
Rabin J Pournazarian

Movant(s):

Balboa Thrift & Loan

Represented By
Keith E Herron

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Thomas Lee Abercrombie and Rebecca Anne Abercrombie

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:17-17189 Earma Denise Young Washington and Marvin Ray

Chapter 13

#28.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 18642 Lakepoint Drive, Riverside, CA 92503

MOVANT: LOANDEPOT.COM, LLC

EH__

Docket 70

*** VACATED *** REASON: ORDER ENTERED 4/19/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Earma Denise Young Washington

Represented By
Brad Weil

Joint Debtor(s):

Marvin Ray Washington

Represented By
Brad Weil

Movant(s):

loanDepot.com, LLC, and its

Represented By
Christina J O

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:16-16909 Edward Edmund Zozaya and Georgia Parrilla Zozaya

Chapter 13

#29.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 9617 Surrey Ave, Montclair, California 91763

MOVANT: WELLS FARGO BANK, NATIONAL ASSOCIATION

From: 1/29/19, 2/26/19, 3/26/19, 4/16/19

EH__

Docket 234

***** VACATED *** REASON: ORDER ENTERED 4/18/19**

Tentative Ruling:

Tentative Ruling:

1/29/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Edward Edmund Zozaya

Represented By
Dana Travis

Joint Debtor(s):

Georgia Parrilla Zozaya

Represented By
Dana Travis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Edward Edmund Zozaya and Georgia Parrilla Zozaya

Chapter 13

Movant(s):

Wells Fargo BAnk, N.A.

Represented By
April Harriott
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

6:15-19930 Melinda Kay Allen

Chapter 13

#30.00 CONT Amended Motion (related document(s): 60 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11139 Laurel Ave., Bloomington CA 92316 . filed by Creditor US Bank Trust National Association as Trustee of IGSC Series II Trust) (Zilberstein, Kristin)

MOVANT: US BANK TRUST NA

From: 1/15/19, 3/26/19, 4/16/19

EH__

Docket 62

***** VACATED *** REASON: ORDER ENTERED 4/29/19**

Tentative Ruling:

01/15/2019
Service: Proper
Opposition: Yes

The Debtor, after seemingly failing to make payments to Movant for several months, now seeks a continuance based on a loan modification request that she has not yet submitted for review. The Court is inclined to GRANT relief from the stay under § 362(d)(1). GRANT waiver of 4001(a)(3) stay. DENY request for termination of the co-debtor stay based on lack of service on any co-debtor and lack of evidence as to identity of alleged co-debtor. GRANT request under ¶3. DENY request for APO as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Melinda Kay Allen

Represented By
Steven A Alpert

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, April 30, 2019

Hearing Room 303

10:00 AM

CONT... Melinda Kay Allen

Chapter 13

Movant(s):

US Bank Trust National Association

Represented By
Kristin A Zilberstein
Michelle R Ghidotti

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, April 30, 2019

Hearing Room 303

2:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#31.00 CONT Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Causes of Action .

MOVANT: ANDRZEJ LUCZYNSKI AND Z&M TRADING, INC.

From: 4/16/19

EH__

Docket 38

Tentative Ruling:

4/30/2019

Service: Proper
Opposition: Yes.

On February 19, 2019, Anthony Yue Ming Liu ("Debtor") filed a Chapter 11 voluntary petition. On Schedule F, Debtor listed Andrzej Luczynski ("Movant") as the holder of an unsecured claim of \$1,380,000 relating to a civil lawsuit.

On March 12, 2019, Movant filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for tortious exclusion of joint venturer, breach of fiduciary duty, breach of contract, and wrongful eviction. A state court hearing on Debtor's objections to the tentative decision and proposed judgment had been scheduled for February 20, 2019, but was ultimately postponed due to the instant bankruptcy filing. It appears from the contents of the motion that Movant is only requesting to have the state court enter judgment, thereby liquidating Movant's claim.

On April 2, 2019, Debtor filed his opposition. The crux of Debtor's opposition is that the relief from the automatic stay is unnecessary because Movant's claim has been effectively liquidated. Debtor notes that "[t]he only issue remaining is a determination of any costs and attorney's fees, which Debtor has attempted to review for

**United States Bankruptcy Court
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CONT... Anthony Yue Ming Liu

Chapter 11

reasonableness in hopes that the parties could avoid unnecessary litigation and expenses regarding the same." [Dkt. No. 49, pg. 4, lines 10-12]. On April 9, 2019, Movant filed a reply, effectively arguing that Debtor's opposition does not contain a legal basis upon which relief from stay could be denied.

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

- (1) Whether the relief will result in a partial or 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 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 good or proceeds in question; (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties; (8) whether the judgment claim arising from the foreign action is subject to equitable subordination; (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). In *Roger*, the Court further stated:

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the

**United States Bankruptcy Court
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CONT...

Anthony Yue Ming Liu

Chapter 11

administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all.

Here, the *Curtis* factors weigh in favor of granting relief from the automatic stay. First, the relief requested would result in a complete resolution of the issues. Debtor's argument that relief from stay is not necessary to resolve the issue, because the issue could be resolved through the claim objection process in bankruptcy court, is not persuasive to the Court because it does not directly address the first *Curtis* factor and because, presumably, the state court is in a better position to assess the reasonableness of the fees and costs incurred in its own proceedings. Likewise, the second factor weighs in favor of the relief requested because the entry of a judgment in state court will not interfere with the administration of the bankruptcy estate. Debtor has not raised a plausible argument contending otherwise. A choice by Debtor to possibly incur attorney fees arguing the amount of Movant's fees and costs incurred in the state court proceeding does not constitute interference with the administration of the bankruptcy estate. Finally, the Court finds that the tenth through twelfth *Curtis* factors weigh in favor of granting relief from stay, because the state court proceeding progressed to the point where it was ready for trial, and the state court is in a better position to judge the reasonableness of the fees and costs incurred in its own proceeding.

The Court finds that the third through ninth *Curtis* factors are largely irrelevant in this situation and do not materially affect the Court's analysis. Additionally, the Court is not inclined to find that the instant bankruptcy was filed in bad faith. Movant's only argument made to support a bad faith finding is that the instant case was filed on the eve of the anticipated state court judgment. Noting that Debtor scheduled Movant's claim and does not appear to be attempting to undermine the state court proceeding, the Court cannot conclude that Debtor is acting on bad faith simply because he is attempting to satisfy Movant's claim through a Chapter 11 plan of reorganization.

The Court is inclined to GRANT request for relief pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a) stay. GRANT request under ¶ 2. DENY request for relief under ¶ 7 for lack of cause shown.

APPEARANCES REQUIRED

United States Bankruptcy Court
Central District of California
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2:00 PM

CONT... Anthony Yue Ming Liu

Chapter 11

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Courtesy NEF

Represented By
Dawn M Coulson
Paul M Stoddard
Mark W Edelstein

**United States Bankruptcy Court
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Tuesday, April 30, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#32.00 Motion to Disallow Claims 22 Julio Garcia, Jr. and 23 Julio Cesar Garcia

Also #33

EH__

Docket 240

Tentative Ruling:

4/30/2019

BACKGROUND:

On October 2, 2018, Technology Solutions and Services, Inc. ("Debtor") filed a Chapter 11 voluntary petition. Debtor's first amended disclosure statement was approved on March 11, 2019; the Chapter 11 plan confirmation hearing is currently set for May 7, 2019

On November 2, 2018, Julio Garcia Jr., a manager of Debtor, and Julio Garcia Sr., the CFO of Debtor (collectively, "Claimants"), filed proof of claims for \$725,758.59 ("Claim 22") and \$555,787.43 ("Claim 23"), respectively. On March 27, 2019, Debtor filed an objection to Claim 22 and Claim 23. The basis of Debtor's objection to both claims is that, after request by Debtor, Claimants have failed to provide sufficient documentation or information to enable Debtor to verify the validity and amount of the claims. Neither Claim 22 nor Claim 23 includes any supporting information.

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CONT... Technology Solutions & Services, Inc., a Californi

Chapter 11

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

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FED. R. BANKR. P. Rule 3001(c)(1) states:

Except for a claim governed by paragraph (3) of this subdivision, when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.

In 2011, FED. R. BANKR. P. Rule 3001(c)(2)(D) was added, providing that failure to submit the required information may result in (i) the claimant being precluded from submitting such information in an adversary proceeding or claim objection; or (ii) other appropriate relief. Notably, Rule 3001(c)(2) only applies to individual cases. This has led to some confusion regarding the appropriate response to the failure to file supporting information for a proof of claim in a non-individual case. *See* 9 COLLIER'S ON BANKRUPTCY ¶ 3001.01[2] (16th ed. 2015) ("Before the rule was amended in 2011, the effect of failure to provide proper documentation of a proof of claim resulted in the claim either being disallowed or losing its *prima facie* validity. A court may determine that these results are still proper since the revised rule clearly establishes explicit sanctions for individual cases. However, it seems logical to assume that courts, in exercise of their right to control evidence and to sanction improper behavior, may apply the Rule 3001(c)(2)(D) sanctions in non-individual debtor cases.").

The Court simply relies on FED. R. BANKR. P. Rule 3001(f), which states: "A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." Here, Claim 22 and Claim 23 are identified as being based on a loan, and Debtor has provided evidence indicating that these claims were based on a writing. Claimants have failed to file the information required by FED. R. BANKR. P. Rule 3001(c)(1) for claims based on a writing. Therefore,

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Claim 22 and Claim 23 are not entitled to prima facie validity, and the burden is on Claimants to establish the validity of those claims by a preponderance of the evidence. Claimants have not opposed the instant objections, and, therefore, have not satisfied their burden.

The Court also deems Claimant's failure to oppose the claim objections to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 22 and Claim 23.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

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6:18-18339 Technology Solutions & Services, Inc., a Californi

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#33.00 Motion for Order Disallowing Scheduled Claim of Blanca Garcia

Also #32

EH__

Docket 243

Tentative Ruling:

4/30/2019

BACKGROUND:

On October 2, 2018, Technology Solutions and Services, Inc. ("Debtor") filed a Chapter 11 voluntary petition. Debtor's first amended disclosure statement was approved on March 11, 2019; the Chapter 11 plan confirmation hearing is currently set for May 7, 2019

On Schedule F, Debtor lists Blanca Garcia ("Claimant"), the CEO of Debtor, as holding an unsecured claim in the amount of \$787,846.990; the basis of the claim is a loan maturing in December 2021. Claimant did not file a proof of claim related to this debt. The Court notes that Claimant did file a proof of claim, relating to unpaid salary, in the amount of \$25,554.10.

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Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; see also *Holm*, 931 F.2d at 623.

ANALYSIS:

The Court notes that Debtor's approach of objecting to a claim deemed filed through

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the operation of 11 U.S.C. § 1111(a) and FED. R. BANKR. P. Rule 3003(b)(1), but not actually filed in the Court's claim register, creates certain unique issues. The purpose of § 1111(a) is to streamline the Chapter 11 process when certain claims are uncontested by the debtor. *See* 7 COLLIER'S ON BANKRUPTCY ¶ 1111.02[1] (16th ed. 2018) ("Section 1111(a) changes this general procedure for the limited case of uncontested claims and interests, allowing the holder of such a claim or interest to participate in the chapter 11 case notwithstanding the failure to file a proof of claim or interest."). It is inherently paradoxical for Debtor to file schedules indicating that it does not contest a certain claim, then object to its own schedules on the basis that it contests its own characterization of the claim. Instead, it would seem that the more appropriate procedural approach is illustrated as follows:

The second alternative would have been for debtor to amend its schedules and designate the Varela "deemed allowed" claim as "disputed" so that it would lose its "deemed allowed" status. Debtor would then have had to give notice of the amendment to Varela and Inter Mountain as entities "affected thereby." Varela would have likely responded by filing a proof of claim. If the claims bar date had passed, the court would have had to exercise its authority under Rule 3003(c)(3) to extend the deadline for "cause." While a finding of "cause" is obviously discretionary, refusal to find "cause" in such circumstances would risk eviscerating § 1111(a) and creating a major opportunity to lull creditors into complacency by scheduling them with § 1111(a) "deemed allowed" status and then amending schedules after it is too late to file a claim. The proof of claim would then restore Varela's "deemed allowed" status unless debtor were to file a Rule 3007 objection.

In re Dynamic Brokers, Inc., 293 B.R. 489, 497-98 (B.A.P. 9th Cir. 2003) (citations omitted).

The problem with the approach selected by Debtor is that the supporting information requirements, and corresponding evidentiary effects of FED. R. BANKR. P. Rule 3002(c) and (f), do not apply when a claim is deemed allowed because it was scheduled by a Debtor. Debtor's brief is unclear – the relevant legal analysis is identical to the

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analysis provided in a second claim objection, which was based on lack of supporting information under Rule 3002(c). As a result, Debtor's contention that Claimant has not provided adequate information or evidence to establish the nature and amount of its debt is irrelevant; the claim is prima facie valid, and Debtor has not provided any evidence or coherent argument to rebut the prima facie validity.

Finally, the Court does not find it appropriate to construe the instant claim objection as a disavowal of Schedule F and Debtor's previous acknowledgement of the scheduled claim. While a properly amended Schedule F may trigger the procedure outlined in *In re Dynamic Brokers*, construing the claim objection as obviating the statutory prima facie validity of the scheduled claim erodes Claimant's due process. If Debtor had amended Schedule F, then Claimant would need to be notified of such amendment, and, presumably, provided a time frame to file a properly documented proof of claim. If Debtor objected to that filed claim, then Claimant would be afforded a second time period to provide further evidence establishing the claim by a preponderance of the evidence. Here, Debtor has attempted to collapse those two time periods into a single, shortened period.

Noting that the plan confirmation hearing is currently scheduled for May 7, 2019, it seems to the Court that the restriction of those time periods may have prompted this unique, inherently paradoxical approach.

TENTATIVE RULING

The Court is inclined to OVERRULE the objection.

APPEARANCES REQUIRED.

Party Information

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Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

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6:16-19993 B & B Family, Incorporated

Chapter 11

Adv#: 6:18-01116 Forte v. B & B Family, Incorporated

#34.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01116. Complaint by Patricia Forte against B & B Family, Incorporated

From: 7/24/18, 7/31/18, 10/9/18, 10/16/18, 11/27/18, 1/29/19, 3/5/19

EH__

Docket 1

*** VACATED *** REASON: ADVERSARY DISMISSED 4/8/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B & B Family, Incorporated

Represented By
Todd L Turoci
Julie Philippi

Defendant(s):

B & B Family, Incorporated

Represented By
Todd L Turoci

Plaintiff(s):

Patricia Forte

Represented By
D Edward Hays
Laila Masud

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6:16-19993 B & B Family, Incorporated

Chapter 11

#35.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 12/13/16, 3/7/17, 5/30/17, 7/25/17, 9/26/17, 10/31/17, 11/7/17, 5/15/18,
8/21/18, 1/15/19, 3/5/19

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B & B Family, Incorporated

Represented By
Todd L Turoci
Julie Philippi

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6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#36.00 Motion RE: Objection to Claim Number 10 by Claimant Pacific Steel Group

EH__

Docket 228

*** VACATED *** REASON: CONTINUED TO 5/7/19 AT 3:00 P.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By

James C Bastian Jr

Melissa Davis Lowe

Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By

James C Bastian Jr

Melissa Davis Lowe

Kirsten A Worley

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6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

**#1.00 CONT Motion To Compel Payment Of Administrative Rent Or Immediate Rejection Of Lease And Related Relief
(HOLDING DATE)**

From: 11/27/18, 12/18/18, 2/26/19, 3/27/19

Also #2

EH__

Docket 194

Tentative Ruling:

2/26/19

BACKGROUND

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor") filed a Chapter 11 voluntary petition. On November 2, 2018, The H.N. and Frances C. Berger Foundation ("Berger Foundation") filed its motion to compel payment of administrative rent or immediate rejection of lease and related relief. On November 13, 2018, Debtor filed its opposition.

The subject of the motion is a lease dated August 15, 2008, for certain nonresidential real property located in Palm Desert, California. According to Berger Foundation, "[p]ursuant to the terms of lease, should the Debtor continue to occupy the premises after August 14, 2018, the lease obligation increases to approximately \$91,216.50 per month," [Dkt. No. 194, pg. 2] a doubling of the contractual monthly rental obligation. Berger Foundation requests: (1) that Debtor be compelled to cure the default on the lease or surrender the premises; and (2) allowance of an administrative expense claim

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in the amount of \$3,040.55 per day.

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Debtor's opposition argued that: (1) the lease cannot be assumed or rejected because the lease expired the day before the petition date; and (2) because the lease expired prepetition, the legal basis for the requested administrative expense claim is invalid.

On November 27, 2018, the Court held a hearing on the matter, and continue the hearing for three weeks for supplemental briefing. On December 18, 2018, the Court posted a tentative ruling prior to the continued hearing, indicating that it was inclined to hold that the lease terminated pre-petition, and, therefore, the lease was not an executory contract. The Court continued the matter again, allowing the parties the opportunity to further brief the matter, and to enable the parties to supplement the record to afford the Court the opportunity to assess Berger Foundation's request for administrative rent.

On January 18, 2019, Berger Foundation filed a supplement. On February 1, 2019, Debtor filed a response. Because Berger Foundation has not presented any new argument relating to 11 U.S.C. § 365, the Court is not inclined to modify its tentative, which is outlined in the first portion of the discussion section. Instead, the Court will address the parties' arguments relating to 11 U.S.C. § 503.

DISCUSSION

I. 11 U.S.C. § 365

The critical legal question at issue is whether the operative lease expired prepetition. Berger Foundation relies on 11 U.S.C. § 365(d)(3) as the basis for both its requests, and that provision states:

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The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any *unexpired* lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. The court may extend, for cause, the time for performance of any such obligation that arises within 60 days after the date of the order for relief, but the time for performance shall not be extended beyond such 60-day period. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f) of the section. Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(emphasis added).

As a general rule, an expired lease is no longer executory, and, therefore, is no longer assumable, if the lease expired prepetition. *See, e.g., In re Acorn Invs.*, 8 B.R. 506, 509-10 (Bankr. S.D. Cal. 1981). Therefore, the Court must determine whether the lease at issue expired prepetition. *See Robinson v. Chicago Hous. Auth.*, 54 F.3d 316, 320 (7th Cir. 1995) ("the federal law allowing 'unexpired' leases to be assumed calls for a determination whether a lease has ended under state law."). Here, Debtor argues that the lease expired pre-petition, resulting in a holdover tenancy, in which no privity of contract exists, while Berger Foundation argues that the lease became a month to month tenancy and, therefore, was not expired. While the parties appear to be agree on the operative legal standard, the parties disagree regarding how that standard applies to the facts here

Both parties refer to CAL. CIV. CODE § 1945, which states:

If a lessee of real property remains in possession thereof after the expiration of the hiring, and the lessor accepts rent from him, the parties are presumed to have renewed the hiring on the same terms and for the same time, not

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exceeding one month when the rent is payable monthly, nor in any case one year.

As a preliminary matter, the Court notes that it appears the above legal provision should not actually be applicable to the instant situation. Specifically, CAL. CIV. CODE § 1940(a), (c) states the following:

- (a) Except as provided in subdivision (b), this chapter shall apply to all persons who hire dwelling units located within this state included tenants, boarders, lodgers, and others, however denominated.
- (c) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

Here, the lease at issue was a commercial lease which would remove the lease from the purview of § 1945 based upon the plain language of § 1940. Nevertheless, the Court notes that there is ample caselaw, some of which is cited by the parties, in which California courts have applied § 1945 to commercial property. Although it is not clear to this Court why that section is inapplicable to the instant situation, the Court will defer to the state law courts on this issue of state law.

Ultimately, the argument of Berger Foundation boils down to the following:

In this case, after the expiration of the Lease terms (August 14, 2018), Debtor continued to occupy the Premises. Berger continued to accept the Debtor as a tenant and took no action to terminate the Debtor's leasehold interest in the Premises. To the contrary, as this Court's record reflects, from the outset, Berger has been focusing on receiving rent payments and, in fact, received post-petition payments of not less than \$15,000 as of the date of this Reply. Clearly, pursuant to Civil Code § 1945 and applicable California authority, the

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Lease converted to a month-to-month tenancy after August 14, 2018.

[Dkt. No. 278, pg. 3]. Debtor's argument, on the other hand, appears to be that Berger Foundation's actions in this case simply do not reflect clear consent to Debtor's continued possession of the premises.

First, there appears to be a timing issue which has not been identified by the parties. The operative lease expired, by its own terms, on August 14, 2018. The instant bankruptcy was filed on August 15, 2018. Therefore, assuming, *arguendo*, that rent was paid and accepted in a matter which would trigger the statutory presumption in CAL. CIV. CODE § 1945, such event would have occurred *after* the petition date. *City v. Hart*, 175 Cal. App. 3d 92, 94 (Cal. Ct. App. 1985) ("The statute provides the landlord's consent to the holding over is implied if he accepts rent from the tenant after the expiration of the lease. This consent to the holding over must be established **before** the statutory presumption of the same terms becomes effective.") (emphasis added). Therefore, the lease at issue would have been, as of the petition date, expired and not assumable. Quite simply, on the record before the Court, it is implausible that Berger Foundation could have undertaken any action in the fraction of the day before the instant bankruptcy filing which would have indicated consent to the creation of a month-to-month tenancy.

Furthermore, outside of the bankruptcy law issues raised above, Berger Foundation's position does not seem to be compatible with state law. Quite simply, the presumptions outlined in CAL. CIV. CODE § 1945 are analogous to contractual principles in common law. By remaining in possession of the property, and tendering a rental payment, a holdover tenant is making an offer; by accepting such tender, the landlord manifests his assent to such offer. Berger Foundation seems to be positing that the payment of any rent whatsoever, even a single dollar, subsequently accepted by the landlord, results in the extension of the lease terms on the original contractual terms.

Berger Foundation's argument, however, is inconsistent with fundamental contractual principles, for, in the case of a minimal rental payment, it cannot be said that either party has made an offer, accepted by the other party, to renew the original lease terms. At best, the landlord's implied acquiescence may be construed as an offer, yet the tenant's tender of a minimal rental payment can only be interpreted as a counter-offer,

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since such a tender would be materially inconsistent with the terms of the offer. If the landlord accepts this reduced tender, the terms agreed upon must be construed as those set forth in the counter-offer, a principle codified in CAL. CIV. PRO. § 2076:

The person to whom a tender is made must, at the time, specify any objection he may have to the money, instrument, or property, or he must be deemed to have waived it; and if the objection be to the amount of money, the terms of the instrument, or the amount or kind of property, he must specify the amount, terms, or kind which he requires, or be precluded from objecting afterwards.

See also Taylor v. Taylor, 39 Cal. App. 2d 518, 521 (Cal. Ct. App. 1940) ("It is now settled by these cases that where the tenant tenders, and the landlord accepts, as full payment of the rent, a less monthly rental than that reserved in the lease, he cannot later recover the unpaid balance of the rent reserved.")

While the above principle, a principle of estoppel, is properly subject to the Court's consideration of equities, such consideration would simply not change the fact that a reduced monthly rental payment cannot be considered acquiescence to a renewal of the original contractual terms. In the absence of such mutual agreement to be bound to the original terms, there simply cannot be contractual privity.

Finally, the Court notes that the operation of CAL. CIV. CODE § 1945 is to create a rebuttable presumption that the lease has been extended. Assuming, *arguendo*, that the bankruptcy and contract law issues noted above were not present, it appears probable that such a presumption would be rebutted in the instant case. The Court is not aware of any action taken by Debtor that would support a conclusion that Debtor intended to renew the lease on the original terms, and Berger Foundation has made repeated statements which would be incompatible with the presumption in § 1945. For instance, in the instant motion Berger Foundation made the following statements, which are implicitly and explicitly more compatible with a holdover tenancy than a month-to-month tenancy:

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- "Since the filing of this case, the Debtor has continued, and continues, to occupy the Premises, yet has failed to pay the rental obligation due and owing." [Dkt. No 194, pg. 2 and 4]

- "Based on the fact that the Debtor remained *as a holdover tenant*, and pursuant to the terms of the Lease, the rental obligation increases to approximately \$91,216.50 per month." [Dkt. No. 194, pg. 4 and 10] (emphasis added).

- "Here, the Debtor has made no payments while continuing to occupy the Premises." [Dkt. No. 194, pg. 6].

For the reasons outlined above, the Court concludes that the lease in question was expired as of the petition date because nothing in the record indicates that Berger Foundation provided consent to continued possession of the premises in the less than one-day period between the expiration of the lease and the instant bankruptcy filing. To the extent that Berger Foundation argues that postpetition acts retroactively revived the original lease terms, such retroactive revival would seem to be incompatible with *City v. Hart*, 175 Cal. App. 3d 92, 94 (Cal. Ct. App. 1985). Furthermore, because Debtor did not remotely act in accordance with the original lease terms, it cannot be said that Debtor actions constituted a renewal of those terms; if any lease was entered into postpetition, it must have been on substantially different terms, which would require notice and a hearing. Additionally, even if the statutory presumption of CAL. CIV. CODE § 1945 were applicable in the instant situation, the Court concludes that such presumption would likely be rebutted based on the fact that Debtor did not act in accordance with the original terms, and based on Berger Foundation's explicit characterization of Debtor as a holdover tenant.

II. 11 U.S.C. § 503

11 U.S.C. § 503(b)(1)(A) states:

- (b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including –

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(1)(A) the actual, necessary costs and expenses of preserving the estate including –

"An administrative rent claim under this standard is value 'under an objective worth standard that measures the fair and reasonable value of the lease.'" *In re Pac.-Atl. Trading Co.*, 27 F.3d 401, 403 (9th Cir. 1994) (quoting *In re Dant & Russell, Inc.*, 853 F.2d 700, 707 (9th Cir. 1988)). "The rent reserved in the lease is presumptive evidence of fair and reasonable value, but the presumption may be rebutted by demonstrating that the reasonable worth of the lease differs from the contract rate." *In re Thompson*, 788 F.2d 560, 563 (9th Cir. 1986). "Where the debtor or trustee only uses a portion of the lease property, however, he must pay an administrative expense only for that portion of the property." *Id.* at 562. The Court continued the previous hearing for the parties to provide evidence and argument regarding the objective value of the portion of the leased property utilized by Debtor.

Debtor first, very briefly, argues that the parties have implicitly agreed to a rental rate of \$5,000 per month, and that that amount should be used in calculating Berger Foundation's administrative claim. Debtor appears to base this argument on the Court's tentative ruling for the hearing of December 18, 2018; specifically, Debtor refers to *Taylor v. Taylor*, 39 Cal. App. 2d 518, 521 (Cal. Ct. App. 1940). The Court rejects Debtor's approach. The relevant language in the Court's tentative ruling is used to illustrate that, in the context of a holdover tenancy, the original contractual terms do not necessarily control when the parties have acted in a manner which is materially inconsistent with those terms. Importantly, here, the \$5,000 payment discussed by Debtor is not necessarily a "rental" payment, but is more accurately characterized as an "adequate protection" payment. Adequate protection payments may be in amounts substantially different than the actual amount due – for instant, an adequate protection payment may be interest only, or may attempt to estimate the depreciation of the estate, in order to protect the secured creditor's interest. Furthermore, it would not be equitable to apply the estoppel principle codified in CAL. CIV. PRO. § 2076 in the context of bankruptcy, where the lender does have the ability to reject the payment and, without constraint, exercise its traditional state law rights.

Debtor's primary argument is that the contract rate of the lease is an "inappropriate measure" of the objective worth of the lease because Debtor did not use the entirety of the leased premises. Specifically, Debtor argues that it only utilized 4,000 square feet

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Chapter 11

of the leased premises. Berger Foundation, on the other hand, makes two arguments in response: (1) that the entirety of the premises were necessary for Debtor to maintain its CMS license; and (2) that Debtor actually utilized the majority of the premises. In support of its argument, Debtor has provided declarations attesting that Debtor only used 4,000 square feet, and that, after moving into a smaller space, Debtor did not lose any funding, or, presumably, its license. Berger Foundation has provided a declaration which includes the vague statement that Debtor "continued to utilize the majority of the Premises."

The record provided to the Court is, unfortunately, unclear and incapable of providing the necessary evidentiary framework for a precise mathematical calculation. First, there is conflicting evidence regarding whether Debtor used only 4,000 square feet. Second, and more importantly, the evidence seems to suggest, but is still unclear, that the Debtor required all the space to maintain its license (or at least thought it had to). Debtor's response states the following: "Although it is true the Debtor was concerned it might lose funding if it lost its physical address in Palm Desert by hastily vacating the Premises, a belief that the Debtor needed a physical address for funding does not trump the Ninth Circuit requirement that the Debtor actually use the entirety of the Premises. In fact, Berger does not cite to any authority for this proposition." [Dkt. No. 323, pg. 10, lines 6-10].

On the record before it, the Court concludes Debtor has failed to demonstrate it did not use the entirety of the premises. More specifically, the Court concludes that there are a variety of ways that a space can be "used," and that that term is not limited to physical occupancy by the tenant. While, again, the record before the Court is less than clear, it appears that Debtor represented that it had control over, and occupancy of, the entirety of the premises for purposes of its licensing and funding. As a result, it appears Debtor continued to "use" the leased premises for some purposes, even if such use did not necessarily amount to physical use of the entirety of the premises for normal business operations. Because Debtor has not established that the use of the full premises was not reasonably necessary to preserve the estate, the Court rejects Debtor's attempt to reduce the space used to 4,000 square foot. As a result, the Court concludes that Debtor has not rebutted the presumption that the contract rate represents the reasonable value of the leased premises used.

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TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of allowing Berger Foundation an administrative claim in the amount of \$172,543.53, less amounts received, and DENY the remainder of the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

Movant(s):

The H. N. and Frances C. Berger

Represented By
David B Golubchik

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6:18-16908 Visiting Nurse Association of the Inland Counties

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#2.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 10/30/18, 11/13/18, 12/18/18, 2/26/19, 3/27/19

Also #1

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

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6:18-20477 Connie Gutierrez

Chapter 7

#3.00 Order to show cause why Keith Nguyen should not be sanctioned in the amount of \$5000.00
(CASE DISMISSED 4/1/19)

EH__

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Connie Gutierrez

Represented By
Keith Q Nguyen

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

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6:19-12755 Salvador Caridad Rodriguez

Chapter 13

#3.10 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property: 29212 Mesa Crest Way, Menifee, CA 92584

MOVANT: SALVADOR CARIDAD RODRIGUEZ

From: 4/30/19

EH__

Docket 13

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: None

The Court, having reviewed the motion, finds the evidence submitted in support of the motion, in the form of a declaration of Debtor, to be lacking the detail and specificity necessary to rebut the statutory presumption that the case is filed in bad faith. Specifically, the Court notes that 11 U.S.C. § 363(c)(3)(C) requires that the presumption of bad faith be rebutted by "clean and convincing" evidence; Debtor's declaration is cursory and devoid of details.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Salvador Caridad Rodriguez

Represented By
Steven A Alpert

Movant(s):

Salvador Caridad Rodriguez

Represented By
Steven A Alpert

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Trustee(s):

Rod Danielson (TR)

Pro Se

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6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#4.00 Motion for Partial Judgment on Pleadings re Answer by Bank of Southern California to Second Amended Complaint

EH__

Docket 133

Tentative Ruling:

5/1/2019

BACKGROUND

On October 25, 2013, Douglas Roger ("Debtor") filed a Chapter 7 voluntary petition. On May 10, 2016, the Court entered an order approving a settlement between Trustee and Revere Financial Corporation ("Plaintiff"). The settlement included a liquidating trust agreement, pursuant to which Trustee would transfer certain assets to a liquidating trust controlled directly or indirectly by Plaintiff.

On July 29, 2016, Plaintiff, in its capacity as liquidating trustee, filed a complaint against Bank of Southern California, N.A. ("Defendant"). The complaint included causes of action for: (a) intentional fraudulent transfer (two claims); (b) constructive fraudulent transfer; (c) preferential transfer; (d) unjust enrichment; and (e) money had and received. On August 31, 2016, Defendant filed a motion to dismiss. The morning of the scheduled hearing, Plaintiff filed a first amended complaint, rendering the motion to dismiss moot. On October 5, 2016, Defendant filed a second motion to dismiss. After one continuance, the Court granted the motion to dismiss the amended complaint, with leave to amend. On February 1, 2017, Plaintiff filed a second amended complaint; on February 28, 2017, Defendant filed a third motion to dismiss. On April 7, 2017, after one continuance, the Court granted the motion to dismiss; the dismissal was with prejudice as to the claims for unjust enrichment and money had

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and received.

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On July 5, 2017, Plaintiff filed a third amended complaint. On August 4, 2017, Defendant filed a fourth motion to dismiss. On September 7, 2017, the Court dismissed the third amended complaint, in its entirety, with prejudice. On September 21, 2017, Plaintiff appealed the dismissal to the district court.

On April 13, 2018, the district court reversed this Court's orders relating to both the second and third amended complaints, reinstating the second amended complaint as the operative complaint. On July 31, 2018, the Court entered an amended order vacating dismissal of the case and clarifying that the second amended complaint was the operative complaint.

On July 31, 2018, Defendant also filed an answer. The answer contained the following twenty-three affirmative defenses:

- (1) Failure to state a cause of action;
- (2) Estoppel
- (3) Laches
- (4) Waiver
- (5) Setoff/Recoupment
- (6) Unclean Hands
- (7) No Recovery
- (8) Failure to Mitigate Damages
- (9) Contemporaneous Exchange for New Value 11 U.S.C. § 547(c)(1)

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- (10) Ordinary Course 11 U.S.C. § 547(c)(2)
- (11) Value
- (12) Limitation of 11 U.S.C. §546
- (13) Not Insolvent
- (14) The Bank Did Not Receive More Than It Would Have in a Chapter 7
- (15) No Liability Under 11 U.S.C. § 550
- (16) New Value 11 U.S.C. § 547(c)(4)
- (17) Not Debtor's Assets
- (18) Justification
- (19) Voluntary Payment
- (20) Good Faith
- (21) Accord and Satisfaction
- (22) Earmarking Doctrine
- (23) Reservation of Rights and Non-Waiver

[Dkt. No. 96, pages 13-17].

After a brief discovery dispute between the parties, Plaintiff filed a motion for partial judgment on the pleadings (the "Motion") on April 10, 2019, seeking an order striking all the affirmative defenses in the operative answer. The Motion contains two categories of argument. First, Plaintiff argues that eight of the twenty-three affirmative defenses are insufficient as a matter of law. Second, Plaintiff argues that the remaining fifteen affirmative defenses are insufficient as a matter of pleading.

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On April 17, 2019, Defendant filed its opposition. On April 24, 2019, Plaintiff filed its reply.

LEGAL DISCUSSIONS

FED. R. CIV. P. Rule 12(c) & (f), incorporated into bankruptcy proceeds by FED. R. BANKR. P. Rule 7012(b), state the following:

(c) **Motion for Judgment on the Pleadings.** After the pleadings are closed – but early enough not to delay trial – a party may move for judgment on the pleadings.

(f) **Motion to Strike.** The Court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:

(1) on its own; or

(2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading.

There are several potentially applicable definitions of "judgment." For instance, FED. R. CIV. P. Rule 54(a) states, in pertinent part: " 'Judgment' as used in these rules includes a decree and any order from which an appeal lies." FED. R. BANKR. P. Rule 9001(7) includes an additional definition of judgment. The most specific, and therefore, most appropriate, definition of judgment is contained in FED. R. BANKR. P. Rule 9002(5), which provides:

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The following words and phrases used in the Federal Rules of Civil Procedure made applicable to cases under the Code by these rules have the meaning indicated unless that are inconsistent with the context:

(5) "Judgment" includes any order appealable to an appellate court.

Here, it is unclear how Plaintiff can request a "judgment," while simultaneously stating that "BSC may amend BSC's answer to actually allege facts to support BSC's affirmative defenses in an operative answer." [Dkt. No. 137, pg. 3, lines 24-26]. Regardless, because leave to amend pleadings is to be granted liberally, and because of the unsettled nature of the law on this issue, the Court would not prohibit Defendant from amending its answer, even if so requested by Plaintiff. *See* FED. R. CIV. P. Rule 15(a)(2), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7015, ("The Court should freely give leave when justice so requires."). As a result, it does not appear that the relief requested by Plaintiff could be construed as a judgment.

This conclusion is supported by the case law cited by Plaintiff in its argument section, which begins on page 11 of docket number 133. [The Court notes that while this section begins with section (III)(A), docket number 133 contains multiple sections (III), the latter of which contains two subsections (A)]. The Court takes issue with Plaintiff's fundamental misrepresentation of the caselaw it is citing. There are two sentences in the argument section of docket number 133 which stand for the proposition that a motion for judgment on the pleadings as to affirmative defenses is a proper procedural approach, neither of which are adequately supported by relevant caselaw.

The first sentence is on lines 12-14 of page 11, and states: "A court will grant a motion for judgment pleadings against a defendant's affirmative defenses if the affirmative defenses are insufficiently pled." This statement is followed by the following citation: *Westport Ins. Corp. v. N. Cal. Relief*, 76 F. Supp. 3d 869, 882 (N.D. Cal. 2014); *Nyberg v. Portfolio Recovery Assocs., LLC*, 2016 WL 3176585 at *2 (D. Or. 2016); *see also Pac. W. Grp. v. Real Time Solutions*, 2008 U.S. App. LEXIS 27037, *1-3 (9th Cir. 2008) ("The district court properly granted partial judgment on

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the pleadings. . . ."); *Savage v. Council on Am.-Islamic Relations, Inc.*, 2008 WL 2951281, at *2 (N.D. Cal. 2008). Three of these four cases appear irrelevant to the issue before the Court. The district court in *Westport Ins.* concluded that standard judgment on the pleadings (i.e. judgment on the Plaintiff's own causes of action) was appropriate in that case notwithstanding the existence of affirmative defenses raised in the answer. The Ninth Circuit in *Pac. W.* dealt with a defendant's motion for partial judgment on the pleadings, yet Plaintiff has decided to arbitrarily include the citation with a quotation that "[t]he district court properly granted partial judgment on the pleadings." Likewise, the district court in *Savage* dealt with a defendant's motion for partial judgment on the pleadings. *Nyberg* does stand for the assertion made by Plaintiff, but the district court in that case engaged in no analysis of the characterization and simply decided to defer to the characterization adopted by the plaintiff.

The second sentence is at lines 26-27 of page 11, and states: "A court should grant judgment on the pleadings if the answer contains insufficient affirmative defenses." This statement cites *Westport* and FED. R. CIV. P. Rule 12(f). *Westport* does support the quoted sentence, but is not applicable to a motion for judgment *as to affirmative defenses*. And Plaintiff is not moving under Rule 12(f) so that citation is inapposite.

Presumably, the reason that Plaintiff has adopted this questionable procedural approach is that a motion under Rule 12(f) is no longer available, absent permission of the Court, because the deadline for that motion has passed. Nevertheless, Plaintiff then shifts to cases applying Rule 12(f) without disclosing the same. In presenting the applicable legal standard, Plaintiff next cites *Ross v. White*, 2018 WL 3419647 (C.D. Cal. 2018), *Ganley v. Cnty. of San Mateo*, 2007 WL 902551 (N.D. Cal. 2007), and *Barnes v. AT&T Pension Benefit Plan-Nonbargained Program*, 718 F. Supp. 2d 1167 (N.D. Cal. 2010). All of these cases deal with Rule 12(f) and contain no mention of Rule 12(c). Likewise, *CTF Dev., Inc. v. Penta Hosp., LLC*, 2009 WL 3517617 (N.D. Cal. 2009), *Hayne v. Green Ford Sales, Inc.*, 263 F.R.D. 647 (D. Kan. 2009), and *Microsoft Corp. v. Jesse's Computers & Repairs, Inc.*, 211 F.R.D. 681 (M.D. Fla. 2002) all deal with Rule 12(f) motions.

Given that Plaintiff has filed a Rule 12(c) motion, but declined to support the motion with adequate caselaw, it is somewhat unclear how this Court should proceed. The Court finds the following well-reasoned analysis, from *Jou v. Adalian*, 2017 WL

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3624340 at *2-*4 (D. Hi. 2017) to be particularly helpful:

The court next addresses whether the Motion is timely. If filed as a motion to strike an "insufficient defense" under Rule 12(f), then it is barred by Rule 12(f)(2), which requires that a Rule 12(f) motion be filed "within 21 days after being served with the pleading." But if filed as a motion for failure "to state a legal defense to a claim under Rule 12(h)(2)(B), then it is timely.

As a starting point, most courts appear to assume that *any* motion to strike an affirmative defense must be brought under Rule 12(f).

But these cases largely ignore Rule 12's second method of challenging an affirmative defense – Rule 12(h)(2)(B). As stated, this rule permits the filing of a Rule 12(c) motion for failure to state a legal defense to a claim. So, the question becomes how to reconcile Rule 12(f) and Rule 12(h)(2)(B). More specifically, what is the difference between challenging an "insufficient defense" under Rule 12(f) and challenging the failure to state a "legal defense" to a claim under Rule 12(h)(2)(B)? In answering this question, the court follows some general rules of statutory constructions. The court starts, of course, with plain meaning. And an interpretation that gives effect to every clause is generally preferable to one that does not. As a corollary rule, no provision should be construed to be entirely redundant. Thus, a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.

As an initial matter, the court rejects the view that Rule 12(h)(2)(B) simply allows a Rule 12(f) motion to be filed beyond the deadline set forth in Rule 12(f). This interpretation renders meaningless Rule 12(f)(2)'s requirement that a Rule 12(f) motion be filed within twenty-one days of service of the complaint. And, it fails to recognize the difference between an "insufficient" and a "legal" defense.

The court concludes that the difference between an "insufficient defense" and the failure to "state a legal defense to a claim" is based on the *type* of challenge being

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made. A claim of an "insufficient defense" covers a broader array of possible challenges than one claiming failure to state a "legal defense." In fact, while every failure to state a "legal defense" would also likely be an "insufficient defense," the reverse isn't true – some defenses can be insufficient but still state a legal defense. This follows from the definition of "legal defense" as a complete and adequate defense in a court of law. If a defense is not a complete and adequate one, it is not a legal defense. So, for example, if an affirmative defense of laches is not available as a matter of law in a particular case, then the plaintiff could move under Rule 12(h)(2)(B) (via Rule 12(c)) for judgment on the pleadings as to that defense. But if a Plaintiff simply claims that an affirmative defense as pled is too conclusory or boilerplate, then that claim does not challenge legal adequacy; instead, it asserts that the defense is insufficient as pled. This reading of Rule 12(f) and 12(h)(2)(B) gives meaning to both provisions and avoids finding any provision superfluous.

Here, Plaintiff simply claims that the majority of affirmative defenses are boilerplate and conclusory – i.e., they are insufficient as pled. The court thus construes the Motion as being brought pursuant to Rule 12(f). And because it was filed many months late, it is untimely.

[Citations, quotations, and footnotes omitted]. The Court also notes that the thorough analysis provided by the district court in *Jou* also resolves this Court's earlier-stated concerns about the definition of "judgment"; if an affirmative defenses is truly unavailable as a matter of law, then there would be no reason to permit leave to amend.

Therefore, in line with the reasoning outlined above, the Court is inclined to DENY the motion with respects to the fifteen affirmatives defenses that Plaintiff contends were inadequately pled. The proper remedy for Plaintiff was to file a Rule 12(f) motion, which, at present, would be untimely. Without needing to decide the issue, the Court notes that Plaintiff's contention, in the reply, that this Court has already decided that the heightened pleading standards apply to affirmative defenses, is simply inaccurate. The attached tentative ruling is simply not relevant to a Rule 12(f) analysis.

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The Court will, however, consider whether the remaining eight affirmative defenses are unavailable as a matter of law. Those eight defenses are: (1) failure to state a claim; (2) no recovery; (3) not insolvent; (4) the bank did not receive more than it would have in a Chapter 7; (5) non debtor's assets; (6) accord and satisfaction; (7) earmarking doctrine; and (8) reservation of rights and non-waiver.

The Court agrees with Plaintiff that "reservation of rights and non-waiver" is not a legal, affirmative defense, and is properly stricken as a matter of law. *See, e.g., A.K.C. v. City of Santa Ana*, 2010 WL 11469021 at *2 (C.D. Cal. 2010). The Court further agrees with Plaintiff, for the reasons set forth in the Motion, that the first, seventh, thirteenth, fourteenth, seventeenth, and twenty-first affirmative defenses simply negate an element of the claims that Plaintiff is already required to provide. As a result, these six affirmative defenses are not properly characterized as affirmative defenses because Plaintiff is already required to prove the opposite. *See, e.g., Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1088 (9th Cir. 2002) ("A defense which demonstrates that plaintiff has not met its burden of proof is not an affirmative defense."). Finally, the Court disagrees with Plaintiff regarding the remaining affirmative defense, accord and satisfaction. While accord and satisfaction may not be a valid affirmative defense to a claim for fraudulent transfer, the second amended complaint also contains claims for unjust enrichment and money had and received. While it is not clear what facts Defendant could allege in support of an affirmative defense of accord and satisfaction, the Court, restricting its analysis to the legal adequacy of the affirmative defenses, cannot conclude that accord and satisfaction is an improper legal defense to the second amended complaint as a whole.

TENTATIVE RULING

The Court is inclined to GRANT the motion IN PART, striking the First, Seventh, Thirteenth, Fourteenth, Seventeenth, Twenty-Second, and Twenty-Third affirmative defenses, with prejudice, and DENY the remainder of the Motion without prejudice.

APPEARANCES REQUIRED.

Party Information

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Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Movant(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

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6:17-17749 Joshua Cord Richardson

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Adv#: 6:18-01146 Sonnenfeld v. Richardson

#5.00 Motion for Summary Judgment or, in the Alternative, Summary Adjudication of Issues

Also #6

EH__

Docket 18

Tentative Ruling:

5/1/2019

PROCEDURAL BACKGROUND

On September 15, 2017, Cleo Sonnenfeld, as Trustee of the Sonnenfeld Family Trust ("Plaintiff") filed an involuntary petition against Joshua Richardson, his nephew ("Defendant"). On November 6, 2017, Defendant stipulated to the entry of an order for relief, and the order for relief was entered two days later.

On June 29, 2018, Plaintiff filed a complaint against Defendant to determine dischargeability of debt pursuant to 11 U.S.C. § 523(a)(2)(A), (a)(4) and (a)(6), and to deny discharge pursuant to 11 U.S.C. § 727(a)(3) and (5). On July 30, 2018, Defendant filed his answer. After the parties stipulated to a continuance of the scheduling order, Plaintiff filed an amended complaint (the "Amended Complaint"), adding a claim under § 727(a)(4), on January 13, 2019.

After a second stipulation to amend the scheduling order, Plaintiff filed the instant motion for summary judgment on March 18, 2019. On April 9, 2019, Defendant filed

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its opposition (as well as an amended answer). The Court notes that Defendant's opposition does not contain a single citation to bankruptcy law and only purports to controvert nine of Plaintiff's sixty-six statements of fact. On April 17, 2019, Plaintiff filed a reply

FACTUAL BACKGROUND

In the Amended Complaint, Plaintiff alleges that, in 2012, Defendant fraudulent induced Plaintiff to loan Defendant funds totaling \$225,000. Plaintiff asserts that the purpose of this loan was to enable Defendant to purchase certain real property located at 13710 Oakley Dr., Moreno Valley, CA (the "Property"), and further asserts that the loan was intended to be secured by a first priority deed of trust. Plaintiff asserts that Defendant never provided Plaintiff with a deed of trust, while subsequently recording deeds of trust, totaling \$265,000, in favor of other entities; Plaintiff further contends that Defendant stopped paying the loan in April 2015.

By way of background, on January 11, 2017, Plaintiff filed a state court complaint against Defendant for breach of contract, fraud, unjust enrichment, constructive trust, and declaratory relief. On February 6, 2018, this lawsuit was removed to the bankruptcy court; the Chapter 7 Trustee ultimately substituted in as the defendant after removal. After multiple hearings, the Court ultimately approved a compromise between Plaintiff and the Chapter 7 Trustee [Dkt No. 69]. The compromise provided that Plaintiff would receive a money judgment in the amount of \$318,778.12 and a judgment holding that the estate was holding the Property in constructive trust for Plaintiff; a judgment to that effect was entered by the Court.

Also relevant to this proceeding is Plaintiff's detailed contentions that Defendant materially misrepresented certain financial information in his case commencement documents and at the meeting of creditors, and that Defendant professed a lack of information regarding certain other significant financial details. These contentions are concisely detailed in Plaintiff's statement of proposed findings of fact [Dkt. No. 19].

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LEGAL STANDARD

Summary judgment should be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. FED. R. CIV. P. Rule 56(a) (incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7056).

The moving party has the burden of establishing the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). If the moving party shows the absence of a genuine issue of material fact, the nonmoving party must go beyond the pleadings and identify facts that show a genuine issue for trial. *Id.* at 324. The court must view the evidence in the light most favorable to the nonmoving party. *Bell v. Cameron Meadows Land Co.*, 669 F.2d 1278, 1284 (9th Cir. 1982). All reasonable doubt as to the existence of a genuine issue of fact should be resolved against the moving party. *Hector v. Wiens*, 533 F.2d 429, 432 (9th Cir. 1976).

If the moving party meets its initial burden, the non-moving party must set forth, by affidavit or as otherwise provided in Rule 56, specific facts showing that there is a genuine issue for trial. *Id.* However, the non-moving party "must do more than simply show that there is some metaphysical doubt as to the material fact...." *Matsushita Electrical Industry Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-587 (1986).

A fact is material if it "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.*

LEGAL ANALYSIS

11 U.S.C. § 727(a)(3)-(5) state:

- (a) The court shall grant the debtor a discharge, unless ---
 - (3) the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor's financial condition or business

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transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case;

(4) the debtor knowingly and fraudulently, in or in connection with the case ---

(A) made a false oath or account;

(B) presented or used a false claim;

(C) gave, offered, received, or attempted to obtain money, property, or advantage, or a promise of money, property, or advantage, for acting or forbearing to act; or

(D) withheld from an officer of the estate entitled to possession under this title, any recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs;

(5) the debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the debtor's liabilities

FED. R. BANKR. P. Rule 4005 places the burden of proof on the Plaintiff for all claims in this complaint.

A. *11 U.S.C. § 727(a)(5)*

The Court begins its analysis with § 727(a)(5). Under § 727(a)(5), the Plaintiff is first required to make a showing of the required elements. *In re Retz*, 606 F.3d 1189, 1205 (9th Cir. 2010) ("Once the creditor has made a prima facie case [under § 727(a)(5)], the debtor must offer credible evidence regarding the disposition of the missing assets."). Specifically, "[t]he objecting party must demonstrate: (1) debtor at one time, not too remote from the bankruptcy petition date, owned identifiable assets; (2) debtor no longer owned the assets on the petition date; and (3) the bankruptcy pleadings or statement of affairs do not reflect an adequate explanation for the disposition of the assets." *In re Poole*, 2017 WL 3598050 at *6 (B.A.P. 9th Cir. 2017).

Regarding the first element, Plaintiff has established that Defendant took a \$65,000 loan from Val-Christ Investments, Inc. around December 21, 2015, and, additionally, took a \$200,000 loan from the Samir and Mona Sanghani Living Trust 2014 around September 15, 2016. [Dkt No. 18, Exhibits 12 and 13]. This is certainly sufficient to establish "identifiable assets." While neither party has provided case law providing guidance on the appropriate look-back period, the Court notes that the case law seems

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to support a two-year period, at a minimum, with a longer period when warranted by the facts. *See, e.g., In re Self*, 325 B.R. 224, 250 (Bankr. N.D. Ill. 2005) ("A focus on the two years prior to the bankruptcy filing is common. Inquiries beyond the two-year period may be warranted.") (citations omitted) (collecting cases). The Court notes that both of the loans at issue occurred within two years prior to the entry of the order for relief, and the Court finds that these transactions were not too remote to be excepted from § 727(a)(5).

Regarding the second and third elements, the schedules filed by Defendant demonstrate that Defendant is no longer in possession of the loan proceeds. Furthermore, Plaintiff has established that, despite several requests, Plaintiff has failed to offer any evidence or clear, consistent account of what happened to the \$265,000 received. [Dkt. No 19, pg. 7-10]. Therefore, the Court concludes that Plaintiff has made prima facie showing under § 727(a)(5).

Defendant's opposition contains no objection or argumentation to refute the statements offered by Plaintiff. "A debtor's failure to offer a satisfactory explanation when called on by the court is a sufficient ground for denial of discharge under § 727(a)(5)." *In re Devers*, 759 F.2d 751, 754 (9th Cir. 1985). Because Plaintiff has made a prima facie case under § 727(a)(5), and Defendant has failed to offer any admissible evidence to rebut any of the elements of the Claim, the Court is inclined to GRANT summary judgment, DENYING Defendant's discharge pursuant to § 727(a)(5).

B. 11 U.S.C. § 727(a)(3)-(4)

Because the Court is inclined to deny Defendant a discharge pursuant to 11 U.S.C. § 725(a)(5), the Court will only briefly address the claims pursuant to § 727(a)(3)-(4).

Regarding 11 U.S.C. § 727(a)(3), the Court notes that Plaintiff has provided little case law related to this subsection. The only case cited by Plaintiff, *In re Caneva*, 550 F.3d 755 (9th Cir. 2008), related to a debtor who "owned or controlled numerous business entities, recreational vehicles and mobile home parks in Florida, and an airplane." The facts of the case in *In re Caneva* were substantially different than the facts in this case.

While § 727(a)(3) is not expressly limited to non-consumer debtors, the Court questions its application to consumer debtors. *See* 6 COLLIER'S ON BANKRUPTCY ¶ 727.03[3][b], [g] (16th ed. 2018) ("There are cases in which no duty to keep books

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arises; in general consumer debtors have no obligation to keep books. . . . Few consumer debtors maintain anything more than, at most, a collection of bills, receipts and canceled checks, and, absent a sudden and large dissipation of assets, a discharge should not be denied in a typical consumer bankruptcy case due to a lack of books or records."). This is especially true because the lack of records is primarily relevant because of the obstruction of the investigation of the use of the loan proceeds. Section 727(a)(5), however, provides an independent, more factually appropriate basis to deny discharge in these circumstances.

Ultimately, the Court deems it inappropriate to conclude that the Defendant "failed to maintain and preserve *adequate* records" given: (a) the excerpts from COLLIER'S; (b) the caselaw's focus on sophisticated business debtors or individuals with complicated financial situations; and (c) the Court's knowledge that many consumer debtors do not have thorough records. To the extent that a typical consumer debtor has been dissipating assets or has been uncooperative with the Trustee's, or a creditor's, investigation, there are more appropriate avenues than § 727(a)(3) to redress that issue.

Regarding 11 U.S.C. § 727(a)(4), Plaintiff relies on § 724(a)(4)(A) and (D). The Court notes that the elements of a claim under § 727(a)(4)(A) are: "(1) the debtor made a false oath in connection with the case; (2) the oath related to a material fact; (3) the oath was made knowingly; and (4) the oath was made fraudulently." *In re Roberts*, 331 B.R. 876, 882 (B.A.P. 9th Cir 2005). Paragraphs 49 through 57 of Plaintiff's statement of proposed facts establish several instances of false statements made by Defendant. These statements relate to material facts given that the subject of the statement is assets or financial transactions of the Defendant of, in some instances, relatively significant value.

Nevertheless, the evidence is unclear regarding the third and, more importantly, the fourth element of a § 727(a)(4)(A) claim. A false oath is made fraudulently if the Defendant made the oath knowing it was false and with the intent and purpose of deceiving creditors. *See, e.g., In re Murtaza*, 2018 WL 1599755 at *4 (B.A.P. 9th Cir. 2018). Here, the motion for summary judgment and the accompanying statement of proposed findings of fact and conclusions of law do not contain any direct evidence or argument concerning Defendant's state of mind or intent. Certainly, the Court could analyze whether the pattern of conduct is sufficient to permit an inference that Defendant acted fraudulently. Nevertheless, given the current evidentiary record, and noting that the Court is inclined to deny discharge pursuant to § 727(a)(5), the Court does not intend to engage in such analysis.

C. 11 U.S.C. § 523

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The adversary complaint also contains three causes of action pursuant to 11 U.S.C. § 523. While these causes of action are of reduced importance if Defendant's discharge is denied, the Court is aware that a non-dischargeability judgment under § 523 may be *res judicata* in a future bankruptcy filing, while a judgment under § 727 may not be *res judicata*. Therefore, the Court will quickly analyze the § 523 claims.

Plaintiff's motion for summary judgment on the § 523 claims depends upon the use of *res judicata* and the stipulated judgment obtained in adversary case 6:18-ap-01035-MH. The Court rejects the use of *res judicata* in this situation on the basis that Defendant was not a party to adversary proceeding 6:18-ap-01035-MH and Defendant was not in privity with the Chapter 7 Trustee.

The Court is aware that Plaintiff argues, in footnote 16 of the motion for summary judgment, that Defendant was in privity with the Chapter 7 Trustee. In support of this contention, Plaintiff cites *In re Andrews*, 2014 WL 2547808 at *8 (B.A.P. 9th Cir. 2014), which stated: "a bankruptcy trustee stands in privity with a debtor for purposes of preclusion in cases involving a debtor's property rights." The holding in *In re Andrews* is logical because a Chapter 7 Trustee, as representative of the bankruptcy estate, is incentivized to maximize the estate's property interests (which would be the Defendant's property interests in the absence of a bankruptcy); therefore, the Chapter 7 Trustee's interests are aligned with the Debtor. That alignment of interests, however, is not present when the Chapter 7 Trustee stipulates to a judgment intended to delineate property rights, and a creditor then attempts to use that judgment to secure a judgment of non-dischargeability. While Trustee had motive to maximize Defendant's, and minimize Plaintiff's, interest in the Property, Trustee had no motive to shield Defendant from a non-dischargeability judgment.

In the absence of aligned interests between Trustee and Defendant with regard to this non-dischargeability complaint, the requirements for privity are not met. *See Taylor v. Sturgell*, 553 U.S. 880, 893-95 (2008) (outlining the six categories of privity). Because it appears that, on the current record, summary judgment on Plaintiff's § 523 claims require the use of *res judicata*, the Court is inclined to DENY the motion with respect to the § 523 claims.

TENTATIVE RULING

The Court is inclined to GRANT the motion for summary judgment on the sixth claim for relief, DENYING Defendant a discharge pursuant to 11 U.S.C. § 727(a)(5). The

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Court is inclined to DENY the remainder of the motion without prejudice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Defendant(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Movant(s):

Cleo Sonnenfeld

Represented By
D Edward Hays
Laila Masud

Plaintiff(s):

Cleo Sonnenfeld

Represented By
D Edward Hays
Laila Masud

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

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6:17-17749 Joshua Cord Richardson

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Adv#: 6:18-01146 Sonnenfeld v. Richardson

#6.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01146. Complaint by Cleo Sonnenfeld against Joshua Cord Richardson. (A)(4), and (A)(6); and to Deny Discharge Pursuant to 11 U.S.C. Sections 727(A)(3), and (A)(5) (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (62 (Dischargeability - 523(a)(2), 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)),(66 (Dischargeability - 523(a)(1),(14),(14A) priority tax claims)) (Masud, Laila)

From: 8/29/18, 1/30/19, 2/27/19, 3/27/19

Also #5

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Defendant(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Plaintiff(s):

Cleo Sonnenfeld

Represented By
D Edward Hays
Laila Masud

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Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

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6:16-20874 Irma Hernandez

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 14352 La Brisa Road, Victorville, California 92392

MOVANT: U.S. BANK N.A.

From: 3/26/19

EH__

Docket 48

***** VACATED *** REASON: ORDER ENTERED 5/6/19**

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Irma Hernandez

Represented By
David T Egli

Movant(s):

U.S. Bank N.A., as trustee, on behalf

Represented By
Robert P Zahradka

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:17-14312 John C. Macias

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13411 Golden Sand Ave., Victorville, CA 92392

MOVANT: MIDFIRST BANK, A FEDERALLY CHARTERED SAVINGS ASSOCIATION

From: 4/16/19

EH__

Docket 33

*** VACATED *** REASON: ORDER ENTERED 5/6/19

Tentative Ruling:

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

John C. Macias

Represented By
Raymond Obiamalu

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CONT... John C. Macias

Chapter 13

Movant(s):

MidFirst Bank

Represented By
Josephine E Salmon
Darlene C Vigil
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-10732 Calvin S. Winn and Diana M. Winn

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13300 February Dr, Corona, CA 92879

MOVANT: NATIONSTAR MORTGAGE LLC

EH__

Docket 53

Tentative Ruling:

5/7/2019

Service is Proper
Opposition: Yes

Movant to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Calvin S. Winn

Represented By
Christopher J Langley

Joint Debtor(s):

Diana M. Winn

Represented By
Christopher J Langley

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nancy L Lee

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CONT... Calvin S. Winn and Diana M. Winn

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-12231 Brian Howell and Faythe Howell

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7238 Townsend Court, Rancho Cucamonga, CA 91739

MOVANT: HSBC BANK USA NATIONAL ASSOCIATION

EH__

Docket 36

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian Howell

Represented By
Julie J Villalobos

Joint Debtor(s):

Faythe Howell

Represented By
Julie J Villalobos

Movant(s):

HSBC BANK USA, NATIONAL

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-12822 Cynthia Miller

Chapter 13

#5.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15036 Daffodil Circle, Fontana, CA 92336

MOVANT: WELLS FARGO BANK, N.A.

From: 3/26/19, 4/16/19

EH__

Docket 42

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: Late

Parties to apprise Court of status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Cynthia Miller

Represented By
Richard L Barrett

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-16237 Miguel Santa Maria and Lilia Maldonado

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15848 Rough Rider Place, Victorville, California 92394

MOVANT: METROPOLITAN LIFE INSURANCE COMPANY

EH__

Docket 45

*** VACATED *** REASON: ORDER ENTERED 5/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Santa Maria

Represented By
Todd L Turoci

Joint Debtor(s):

Lilia Maldonado

Represented By
Todd L Turoci

Movant(s):

Metropolitan Life Insurance

Represented By
Robert P Zahradka
Megan E Lees

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-20639 Robert A Price

Chapter 13

#7.00 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Insurance proceeds

MOVANT: CREDIT ACCEPTANCE CORPORATION

EH__

Docket 28

Tentative Ruling:

5/7/2019

Service is Proper
Opposition: Non-Opposition

Based upon the non-opposition filed by Debtor [Dkt. No. 30], and noting that Movant is not attempting to collect from property of Debtor or of the estate, and therefore relief from stay will not impact the administration of the bankruptcy estate, the Court is inclined to GRANT relief from stay pursuant to § 362(d)(1). GRANT relief from Rule 4001(a) stay. GRANT requests under ¶¶ 2 and 8.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Robert A Price

Represented By
Paul Y Lee

Movant(s):

Credit Acceptance Corporation

Represented By
Jennifer H Wang

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CONT... Robert A Price

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Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-10974 Ardella Calhoun

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6273 Gamay Court, Rancho Cucamonga, California 91737

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

EH__

Docket 11

Tentative Ruling:

5/7/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ardella Calhoun

Represented By
Keith Q Nguyen

Movant(s):

Deutsche Bank National Trust

Represented By
Megan E Lees

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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6:19-11122 Martin Ontiveros

Chapter 13

#9.00 Amended Motion (related document(s): 16 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 39628 Garin Drive, Murrieta, CA 92562

MOVANT: MARTIN ONTIVEROS

EH__

Docket 30

Tentative Ruling:

Counsel Allan Cate is required to personally appear.

Party Information

Debtor(s):

Martin Ontiveros

Represented By
Allan O Cate

Movant(s):

Martin Ontiveros

Represented By
Allan O Cate

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12180 Gerald B Block and Aleane B Block

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: N 2006 BEAVER PACIFICA; VIN NO. 1RFC9564261040084

MOVANT: BANK OF AMERICA N.A.

EH__

Docket 9

Tentative Ruling:

5/7/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Gerald B Block

Represented By
M. Wayne Tucker

Joint Debtor(s):

Aleane B Block

Represented By
M. Wayne Tucker

Movant(s):

Bank of America, N.A.

Represented By
Megan E Lees

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Trustee(s):

Howard B Grobstein (TR)

Pro Se

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6:19-12236 Jose Luis Aguirre Puga and Teresa Franco

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 Toyota Tundra, VIN 5TFRM5F12CX040732

MOVANT: PARTNERS FEDERAL CREDIT UNION

EH__

Docket 18

Tentative Ruling:

5/7/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose Luis Aguirre Puga

Represented By
Steven A Alpert

Joint Debtor(s):

Teresa Franco

Represented By
Steven A Alpert

Movant(s):

Partners Federal Credit Union

Represented By

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CONT... Jose Luis Aguirre Puga and Teresa Franco

Chapter 7

Yuri Voronin

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-12402 Paul Sheldon Kirkwood

Chapter 13

#12.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 37244 Fallsgrove Murrieta, CA 92563; 2015 Ford F350 Super Duty Lariat 4WD SRW; 2012 Freightliner Cascadeas; 2015 Polaris Razor; 2005 Thor Wanderer 5th Wheel Trailer; 2011 Kia Rio Sedan LX .

MOVANT: PAUL SHELDON KIRKWOOD

From: 4/16/19

EH__

Docket 9

Tentative Ruling:

4/16/2019

Service: Improper
Opposition: None.

Debtor's motion was improperly served under Judge Houle's self-calendar rule III.D, which requires 14 days' notice through service on all interested parties, including creditors and their counsel, pursuant to FRBP 7004. FRBP 7004 requires service by certified mail on a party's officer or general agent for service of process. Debtor appears to have done so on all parties, except for Polaris Consumer Finance and Citizen's Bank, North America. Debtor failed to direct service to those parties' agent for service of process, and, in the case of Polaris, the location given is now closed.

As to the merits, the Court finds that Debtor has present sufficient evidence to rebut the presumption that this case was not filed in good faith and is inclined to GRANT Debtor's motion for an imposition of the automatic stay.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 7, 2019

Hearing Room 303

10:00 AM

CONT... Paul Sheldon Kirkwood

Chapter 13

Debtor(s):

Paul Sheldon Kirkwood

Represented By
Michael E Clark

Movant(s):

Paul Sheldon Kirkwood

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 7, 2019

Hearing Room 303

10:00 AM

6:19-12923 Charles Cuevas and Paula Cuevas

Chapter 13

#13.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property Located at 6812 Angelina Street, Chino, CA 91710

MOVANT: CHARLES CUEVAS AND PAULA CUEVAS

EH__

Docket 14

Tentative Ruling:

5/7/2019

Service: Improper

Opposition: None

Pursuant to 11 U.S.C. § 362(c)(3)(C)(i)(II)(aa), this case was presumptively filed in bad faith because Debtors had a previous case dismissed in the last year after failing to file the required case commencement documents. 11 U.S.C. § 362(c)(3)(C) requires that Debtors rebut this presumption with "clear and convincing" evidence. Here, Debtors have failed to file any separate declaration or otherwise provide any clear or substantiated evidence explaining the reasons that the prior case was dismissed. Moreover, the motion is not served on Wells Fargo in accordance with FED. R. BANKR. P. Rule 7004, as required by Judge Houle's self-calendaring procedures. Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Charles Cuevas

Represented By
Anerio V Altman

Joint Debtor(s):

Paula Cuevas

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 7, 2019

Hearing Room 303

10:00 AM

CONT... Charles Cuevas and Paula Cuevas

Chapter 13

Anerio V Altman

Movant(s):

Charles Cuevas

Represented By
Anerio V Altman

Paula Cuevas

Represented By
Anerio V Altman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 7, 2019

Hearing Room 303

10:00 AM

6:19-12936 Oscar Ricardo Chavez

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4944 Lindley Avenue, Encino, CA 91316

MOVANT: PARK AVENUE INVESTMENT CAPITAL LLC

CASE DISMISSED 4/26/19

EH__

Docket 8

Tentative Ruling:

5/7/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (4) based on an unauthorized, unrecorded alleged transfer of a fractionalized interest in the subject real property three days prior to the petition date, and based on Debtor's failure to file the balance of the case commencement documents. GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2, 10, and 12. Noting that the instant case was dismissed on April 26, 2019, the Court is inclined to GRANT ¶ 4, confirming that there is no automatic stay in effect pursuant to § 362(c)(2)(B), and DENY requests for relief pursuant to § 362(d)(1) and (2) and § 1301(a) (¶ 6), and request under ¶ 13 as moot. The Court is inclined to DENY request for relief under ¶¶ 8 and 11 for lack of cause shown.

In relation to Movant's request that the automatic stay be annulled retroactive to the petition date, the Court considers the *Fjeldsted* factors. The BAP, in *In re Fjeldsted*, noted the absence of a clear standard for annulment of the automatic stay. 293 B.R. 12, 21 (B.A.P. 9th Cir. 2003) ("There is less appellate clarity, however, in enunciating a test for retroactive stay relief. Inconsistent standards have thus developed, which run the gamut from such relief being justified only in 'extreme circumstances' to giving

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

CONT... Oscar Ricardo Chavez

Chapter 13

the court ‘wide latitude’ to ‘balance the equities’ on a case-by-case basis.”). A recent description of the standard for annulment of the automatic stay stated the following:

Determining whether cause exists to annul the stay is a case-by-case inquiry based on a balance of the equities. In conducting this inquiry the bankruptcy court, among other factors, should consider whether the creditor knew of the bankruptcy when violating the stay and whether the debtor’s conduct was unreasonable, inequitable or prejudicial to the creditor.

In *Fjeldsted*, we approved additional factors for consideration in assessing the equities. The twelve nonexclusive factors are: (1) number of filings; (2) whether, in a repeat filing case, the circumstances indicate an intention to delay and hinder creditors; (3) a weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser; (4) the debtor’s overall good faith (totality of circumstances test); (5) whether creditors knew of stay but nonetheless took action, thus compounding the problem; (6) whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules; (7) the relative ease of restoring parties to the status quo ante; (8) the costs of annulment to debtors and creditors; (9) how quickly creditors moved for annulment, or how quickly debtor moved to set aside the sale or violative conduct; (10) whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief; (11) whether annulment of the stay will cause irreparable injury to the debtor; and (12) whether stay relief will promote judicial economy or other efficiencies. The Panel in *Fjeldsted* cautioned that the twelve factors are merely a framework for analysis and not a scorecard, and that in any given case, one factor may so outweigh the others as to be dispositive.

In re Estavan Capital LLC, 2015 WL 7758494 at *5 (B.A.P. 9th Cir. 2015) (citations and quotations omitted).

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Central District of California
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Tuesday, May 7, 2019

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10:00 AM

CONT... Oscar Ricardo Chavez

Chapter 13

While *Fjeldsted* cautioned that the enumerated factors are not a scorecard, the *Fjeldsted* factors weigh in favor of annulling the stay here. Specifically, as is noted by Creditor, Debtor filed a skeletal, *pro se*, Chapter 13 bankruptcy the day before the completion of the foreclosure sale, and, subsequently, made no effort to comply with the duties of a debtor in bankruptcy. Additionally, four days before the scheduled foreclosure, Garegin Hovhannisyanyan, who did not even appear to be the legal owner of the subject real property at the time, purportedly transferred a 5% interest in the real property to Debtor, although the grant deed was never recorded. Finally, the Court has received a declaration from Movant that generally declares Movant lacked knowledge of the instant bankruptcy proceeding. Because the transfer and subsequent bankruptcy filing were clearly a fraudulent scheme intended to delay or defraud creditors, because Debtor made no effort to comply with his duties under the Bankruptcy Code, and because there is no evidence that Movant was aware of the automatic stay, the Court is inclined to GRANT the motion, ANNULING the automatic stay retroactive to the petition date.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Oscar Ricardo Chavez	Pro Se
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Movant(s):

Park Avenue Investment Capital,	Represented By Yevgeniya Lisitsa
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Trustee(s):

Rod Danielson (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 7, 2019

Hearing Room 303

10:00 AM

6:19-13123 Susana Olga Corona

Chapter 13

#15.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: SUSANA O. CORONA

EH__

Docket 11

Tentative Ruling:

5/7/2019

Service: Proper
Opposition: None

11 U.S.C. § 362(c)(3)(C)(i)(II)(cc) creates a rebuttable presumption that this case was filed in bad faith because Debtor failed to perform the terms of her previously confirmed plan. Section 362(c)(3)(C) requires that Debtor submit "clear and convincing" evidence to rebut this presumption. Here, Debtor has only provided general evidence that she experienced a significant and temporary decrease in income, and increase in expenses, without include the supporting details necessary to clearly and convincingly rebut the presumption of bad faith. Therefore, the Court is inclined to CONTINUE the hearing to May 9, 2019, for Debtor to file a supplemental declaration.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Susana Olga Corona

Represented By
Christopher J Langley

Movant(s):

Susana Olga Corona

Represented By
Christopher J Langley

**United States Bankruptcy Court
Central District of California
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Tuesday, May 7, 2019

Hearing Room 303

10:00 AM

CONT... Susana Olga Corona

Christopher J Langley

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 7, 2019

Hearing Room 303

10:00 AM

6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#16.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real & Personal Property

MOVANT: MARK G. SWARTZ AND ELIZABETH M. SWARTZ

EH__

Docket 10

Tentative Ruling:

5/7/2019

Service: Proper
Opposition: None

The Court having reviewed the motion, good cause appearing and notice being proper, the Court is inclined to GRANT the motion, CONTINUING the automatic stay as to all creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber

Movant(s):

Mark G Swartz

Represented By
Joseph A Weber

**United States Bankruptcy Court
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Tuesday, May 7, 2019

Hearing Room 303

10:00 AM

CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

Elizabeth M Swartz

Represented By
Joseph A Weber
Joseph A Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#17.00 Motion to Reject Lease or Executory Contract Motion of the Debtor and Debtor-in-Possession for an Order Authorizing the Debtor to Reject an Insurance Contract with Metropolitan Life Insurance Company Pursuant to 11 U.S.C. § 365

EH__

Docket 356

Tentative Ruling:

5/7/2019

BACKGROUND

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor") filed a Chapter 11 voluntary petition. Debtor has yet filed a disclosure statement or Chapter 11 plan; the exclusivity period has been extended to June 11, 2019.

On April 15, 2019, Debtor filed a motion for authorization to reject an insurance contract (the "Policy") with Metropolitan Life Insurance Company. There has been no opposition to the motion.

DISCUSSION

11 U.S.C. § 365(a) states:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

CONT...

Visiting Nurse Association of the Inland Counties

Chapter 11

Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

Pursuant to § 1107(a), a debtor in possession has the same rights as a trustee, and, therefore, can exercise a trustee's right to reject an executory contract or unexpired lease. When analyzing a motion to reject an executory contract or unexpired lease, the Court applies the business judgment rule. *See, e.g., In re Pomona Valley Med. Group, Inc.*, 476 F.3d 665, 670 (9th Cir. 2007) ("In making its determination, a bankruptcy court need engage in only a cursory review of debtor-in-possession's decision to reject the contract. Specifically, a bankruptcy court applies the business judgment rule to evaluate a debtor-in-possession's rejecting decision . . .") (quotation omitted).

Here, Debtor asserts that it has additional insurance coverage through Guardian, and that, as a result, the Policy is duplicative and constitutes an unnecessary expense. Based upon that evidence, the Court finds that rejection of the Policy is within the sound discretion of Debtor's business judgment.

Noting the lack of any opposition, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h), and good cause appearing,

TENTATIVE RULING

The Court is inclined to GRANT the motion, authorizing Debtor to reject the MetLife Policy.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

2:00 PM

CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

Movant(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
David M Goodrich
Beth Gaschen
Beth Gaschen
Jennifer Vicente
Jennifer Vicente
Ryan W Beall
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

6:18-20003 LC Stahl LLC

Chapter 11

#18.00 CONT Motion for Relief from Stay Automatic Stay Under 11 U.S.C. Section 362
(with supporting declarations) (Real Property)

MOVANT: LOAN FUNDER LLC, SERIES 1829

From: 2/26/19, 3/5/19, 4/10/19

Also #19 & #20

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

Movant(s):

Loan Funder LLC, Series 1829

Represented By
Jeffrey N Brown

**United States Bankruptcy Court
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Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

6:18-20003 LC Stahl LLC

Chapter 11

#19.00 CONT Motion to Approve Compromise Under Rule 9019

From: 4/10/19

Also #18 & #20

EH__

Docket 70

Tentative Ruling:

4/10/2019

BACKGROUND:

On November 27, 2018, LC Stahl LLC ("Debtor") filed a Chapter 11 voluntary petition. On December 6, 2018, Debtor's case was dismissed for failure to file case commencement documents. On December 11, 2018, the dismissal order was vacated.

On December 17, 2018, the Court approved the application of Lauren Newman to appear *pro hac vice* on behalf of Loan Funder, LLC Series 1829 ("Creditor"). On February 27, 2019, the Court approved the application of Stuart Wald to serve as bankruptcy counsel for Debtor.

Among the claims filed in the case is a secured claim in the amount of \$55,424.11 ("Claim 3") filed by Aashish Bhatia ("Bhatia"). On March 5, 2019, Debtor filed a motion to approve compromise with Bhatia. The settlement provides that Luis Stahl,

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Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

CONT...

LC Stahl LLC

Chapter 11

the manager and sole member of Debtor, will pay Bhatia \$30,500, and that Bhatia will retain a secured claim of \$16,000, due in one year and accruing at 10% interest, with payments of at least \$500 due monthly.

On March 27, 2019, Creditor filed an objection to the compromise motion. Specifically, Creditor objects to that portion of the compromise which provides for pre-confirmation payments to be made to Bhatia.

ANALYSIS:

FED. R. BANKR. P. Rule 9019 provides that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

The Ninth Circuit Court of Appeals have previously outlined the factors to be considered in approving a compromise pursuant to Rule 9019: (1) the probability of success in the litigation; (2) the difficulties to be encountered in the matter of collection; (3) the complexity, expense, inconvenience and delay of litigation; and (4) the interest of creditors with deference to their reasonable views. *See In re A&C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). The listed factors assist the Court in determining "the fairness, reasonableness and adequacy of a proposed settlement agreement." *Id.*

**United States Bankruptcy Court
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2:00 PM

CONT... LC Stahl LLC

Chapter 11

The *A&C Properties* elements have limited direct applicability when the proposed compromise is a compromise relating to the treatment of a claim. In this situation, Bhatia is receiving a significant payment immediately from Debtor's principal, as well as pre-confirmation adequate protection, paid by the principal, and the bankruptcy estate is substantially decreasing its liability on Claim 3. Clearly, the compromise is in the best interests of the bankruptcy estate. In particular, and as set for the in Debtor's supplement, the *A&C Properties* elements have been satisfied.

Creditor, however, implicitly argues that, as the senior secured creditor, it should receive adequate protection payments prior to Bhatia. It does not appear that Creditor has requested adequate protection payments at any point in this case. The Court specifically notes that Creditor declined to request adequate protection payments when it brought a motion for relief from the automatic stay.

In the absence of a properly filed request for adequate protection, the Court is reluctant to deny the compromise motion on the basis that Creditor has not yet been offered or received adequate protection payments. The *A&C Properties* test having been satisfied, and because it does not appear that the compromise motion would impair the rights of Creditor, or otherwise cause legal prejudice to Creditor, the Court is inclined to GRANT the motion, APPROVING the compromise as fair and reasonable and in the best interests of the bankruptcy estate.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

Movant(s):

LC Stahl LLC

Represented By
Stuart J Wald

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:18-20003 LC Stahl LLC

Chapter 11

#20.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report
(HOLDING DATE)

From: 1/8/19, 2/26/19, 3/5/19, 4/10/19

Also #18 & #19

EH ____

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#21.00 Application for Compensation for Nicholas W Gebelt, Debtor's Attorney, Period: 11/22/2018 to 4/3/2019, Fee: \$13,685.00, Expenses: \$843.91

Also #22 - #24

EH__

Docket 130

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#22.00 CONT Application for Compensation for Nicholas W Gebelt, Debtor's Attorney, Period: 1/26/2018 to 11/21/2018, Fee: \$31,465.00, Expenses: \$673.89.
(Previously awarded \$14,700.70 in Fees on 4/17/19)

From: 1/8/19, 1/29/19, 3/26/19, 4/16/19

Also #21 - #24

EH__

Docket 95

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#23.00 Motion for approval of chapter 11 disclosure statement

Also #21 - #24

EH__

Docket 127

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#24.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 3/20/18, 8/21/18, 10/23/18, 11/27/18, 2/5/19

Also #21 - #23

EH__

Docket 16

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#25.00 Motion RE: Objection to Claim Number 37 by Claimant Franchise Tax Board

Also #26 & #27

EH__

Docket 248

***** VACATED *** REASON: CONTINUED TO 6/25/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Tuesday, May 7, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#26.00 Confirmation of Chapter 11 Plan

Also #25 & #27

EH__

Docket 197

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Tuesday, May 7, 2019

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2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#27.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 11/6/18, 12/18/18, 1/29/19, 3/5/19

Also #25 & #26

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Tuesday, May 7, 2019

Hearing Room 303

3:00 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#28.00 CONT Motion RE: Objection to Claim Number 10 by Claimant Pacific Steel Group

From: 4/30/19

EH__

Docket 228

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

10:00 AM

6:19-10057 Alvaro Xavier Fierro

Chapter 7

#1.00 Pro se Reaffirmation Agreement Between Debtor and Ally Bank re 2016 Toyota Tundra

EH__

Docket 19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alvaro Xavier Fierro

Pro Se

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

10:00 AM

6:19-10081 Alexis Caseiah Croom

Chapter 7

#2.00 Pro se Reaffirmation Agreement Between Debtor and Arrowhead Credit Union
re 2016 BMW X5

EH__

Docket 17

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alexis Caseiah Croom

Pro Se

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, May 8, 2019

Hearing Room 303

10:00 AM

6:19-10602 Paul J. Foster

Chapter 7

#3.00 Pro se Reaffirmation Agreement Between Debtor and SchoolsFirst Federal
Credit Union re 2007 Mercedes-Benz M Class

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul J. Foster

Represented By
James D. Hornbuckle

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, May 8, 2019

Hearing Room 303

11:00 AM

6:13-27611 Douglas Jay Roger

Chapter 7

**#4.00 CONT Objection to Claim #17 by Revere Financial Corporation
(Holding date)**

From: 10/1/14, 11/5/14, 12/3/14, 12/15/14, 1/28/15, 4/15/15, 7/22/15, 9/23/15,
10/21/15, 11/18/15, 12/16/15, 1/13/16, 3/2/16, 5/4/16, 6/1/16, 9/28/16, 11/16/16,
2/1/17, 2/16/17, 5/3/17, 6/14/17, 6/28/17, 9/20/17, 3/21/18, 6/27/18, 12/19/18,
3/27/19

EH___

Docket 333

***** VACATED *** REASON: CONTINUED TO 6/12/19 AT 11:00 A.M.**

Tentative Ruling:

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

11:00 AM

6:19-11445 Merry Luisa Miravet Irby

Chapter 7

#5.00 Motion to vacate dismissal and reinstate chapter 7 case

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Merry Luisa Miravet Irby	Pro Se
--------------------------	--------

Movant(s):

Merry Luisa Miravet Irby	Pro Se
--------------------------	--------

Trustee(s):

Steven M Speier (TR)	Pro Se
----------------------	--------

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

11:00 AM

6:18-14532 William J Colvin and Becky L Colvin

Chapter 7

#6.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 62

Tentative Ruling:

The lack of objection to Trustee's Final Report and Application for Compensation will be interpreted as consent under LBR 9013-1(f)(3).

11 U.S.C. § 326(a) states that the Court may allow reasonable compensation of the Chapter 7 Trustee. The maximum limit of reasonable compensation is defined as a factor of the moneys disbursed or turned over in the case by the trustee to the parties in interest, excluding the debtor, but including secured creditors. *Id.* This percentage is not to exceed 25% of the first \$5,000, 10% of any amount in between \$5,000 and \$50,000, 5% of any amount between \$50,000 and \$1,000,000, and not more than 3% for any amount over \$1,000,000. These statutory maximums are to serve as caps on fees, and the Court must still review the application for fees to determine whether the request is reasonable.

Here, Trustee has properly calculated their fees according to the percentages provided by § 326(a). Upon review of Trustee's services, the Court finds that the statutory maximum is a reasonable request in this matter. The Court has also reviewed Trustee's accounting of their expenses and finds them reasonable.

The Court has reviewed Counsel for Trustee's application for compensation, and the agreed upon stipulation entered by Trustee and the United States Trustee, and finds that the reduced amount for compensation agreed upon within the stipulation for the compensation of Counsel for Trustee is generally reasonable for the services for provided.

The Court has also reviewed Trustee's application for compensation for the Trustee's services as accountant for the estate, and finds that the amount stipulated upon by Trustee and the United States trustee for the compensation of Trustee acting in the role of account for the estate is also generally reasonable for the services provided.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

11:00 AM

CONT... William J Colvin and Becky L Colvin

Chapter 7

TENTATIVE RULING

Date: 5/8/2019
Opposition: None
Service: Proper

The applications for compensation of the Trustee, Counsel for the Trustee, and Trustee acting in the role of Accountant for the Estate, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 4,750
Trustee Expenses: \$ 10,43

Attorney Fees: \$ 10,280
Attorney Costs: \$ 138.23

Accountant Fees: \$ 2,237.50
Accountant Costs: \$ 482.45

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

William J Colvin

Represented By
Ronald L Brownson

Joint Debtor(s):

Becky L Colvin

Represented By
Ronald L Brownson

Trustee(s):

Karl T Anderson (TR)

Represented By
Lovee D Sarenas

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

11:00 AM

CONT... William J Colvin and Becky L Colvin

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

11:00 AM

6:16-19947 Melissa Lynn Dixon

Chapter 7

#7.00 CONT Show Cause Hearing RE: [13] Motion For Contempt Violation Discharge Order

From: 1/9/19, 2/27/19, 3/27/19, 4/24/19

EH__

Docket 13

***** VACATED *** REASON: CONTINUED TO 5/14/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melissa Lynn Dixon

Represented By
Bryant C MacDonald

Movant(s):

Melissa Lynn Dixon

Represented By
Bryant C MacDonald

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:09-01235 DIAMOND v. Empire Partners, Inc., a California Corporation et

#8.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/13/19,
3/27/19

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

CONT... Empire Land, LLC

Chapter 7

David Loughnot
Jonathan A Loeb
Jeffrey Rosenfeld

DOES 1 through 100, inclusive

Pro Se

Plaintiff(s):

RICHARD K. DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder
John P Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#9.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
01/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/27/19,
3/27/19

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang
Robert M Saunders
Michael I Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

CONT... Empire Land, LLC

Chapter 7

Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I Gottfried
Aleksandra Zimonjic
Monica Rieder

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

CONT... Empire Land, LLC

Chapter 7

Cynthia M Cohen
Roye Zur

Trustee(s):

Richard K Diamond (TR)

Represented By

Michael I Gottfried
Richard S Berger - SUSPENDED -
Rodger M Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01329 DIAMOND v. Empire Partners, Inc., a California Corporation et

#10.00 CONT Status Conference re complaint
(Defendant - Empire Partners, Inc) HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/13/27,
3/27/19

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

CONT... Empire Land, LLC

Chapter 7

	Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Previti Realty Fund, L.P.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
The James Previti Family Trust	Represented By Jonathan A Loeb Jeffrey Rosenfeld

Plaintiff(s):

RICHARD K DIAMOND	Represented By Richard S Berger - SUSPENDED - Michael I Gottfried Aleksandra Zimonjic Monica Rieder John P Reitman Peter M Bransten Cynthia M Cohen Royce Zur
-------------------	---

Trustee(s):

Richard K Diamond (TR)	Represented By Michael I Gottfried Richard S Berger - SUSPENDED - Rodger M Landau Richard K Diamond Peter M Bransten Aleksandra Zimonjic Monica Rieder Lisa N Nobles Peter J Gurfein Paul Hastings
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

CONT... Empire Land, LLC

Chapter 7

Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#11.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report re **Another Meridian Company LLC**

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19

Also #12 & #13

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#12.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report re **ASR Constructors Inc**

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19

Also #11 & #13

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#13.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report re **Inland Machinery, Inc**

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19

Also #11 & #12

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#14.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01286. Complaint by ASR Constructors Inc a California Corporation, Another Meridian Company, LLC, Inland Machinery, Inc. against Gotte Electric, Inc., Insurance Company Of The West, Employment Development Department, Trico-Savi Business Park, L.P., a California limited partnership, Angela Denise McKnight, Steven Schonder, Western Alliance Bank, an Arizona corporation, United states of america, Carlin Law Group APC, Ledcor Construction, Inc., a Washington corporation, DOES 1 through 10, inclusive. (Charge To Estate - \$350.00). Complaint in Interpleader Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Bastian, James)
Trico-Savi Business Park L.P. - Dismissed 12/28/17
Western Alliance Bank, dba Torrey Pines Bank - Dismissed 2/1/18
Gotte Electric, Inc - Dismissed 3/14/18
Ledcor Construction Inc - Dismissed 3/26/18

From: 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

CONT... ASR Constructors Inc a California Corporation Chapter 11

David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

United states of america

Represented By
Charles Parker
Najah J Shariff

Carlin Law Group APC

Represented By
Kevin R Carlin

DOES 1 through 10, inclusive

Pro Se

Plaintiff(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01214 Pringle v. Histen, APC et al

#15.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01214. Complaint by John Pringle against Harry J Histen, APC, Harry J Histen, III. (Charge To Estate - \$350.00). Complaint for: (1) Avoidance of Transfers Pursuant to 11 U.S.C. § 544(b) and Cal. Civ. Code §§ 3439.04(a)(2), 3439.05; (2) Avoidance of Transfers Pursuant to 11 U.S.C. § 548(a)(1)(B); (3) Recovery of Avoided Transfers Pursuant to 11 U.S.C. § 550; and (4) Disallowance of Claims Pursuant to 11 U.S.C. § 502 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Goe, Robert)

From: 1/9/19, 3/6/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 8/21/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Harry J Histen, APC

Pro Se

Harry J Histen, III

Pro Se

Plaintiff(s):

John Pringle

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

CONT...

Home Security Stores, Inc.

Robert P Goe
Charity J Manee

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:18-20477 Connie Gutierrez

Chapter 7

Adv#: 6:19-01028 Whitmore v. Gutierrez et al

#16.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01028. Complaint by Robert S. Whitmore against Daniel Gutierrez, Toby Gutierrez. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons and Notice of Status Conference) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))
(Main case dismissed 4/1/19)

From: 4/10/19

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 4/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Connie Gutierrez

Represented By
Keith Q Nguyen

Defendant(s):

Daniel Gutierrez

Represented By
Lane K Bogard

Toby Gutierrez

Pro Se

Plaintiff(s):

Robert S. Whitmore

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

CONT...

Connie Gutierrez

Julie Philippi

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:19-10279 Thomas Mount

Chapter 7

Adv#: 6:19-01050 Baker et al v. Mount

#17.00 Status Conference RE: [1] Adversary case 6:19-ap-01050. Complaint by Jonathan Baker, Baker Entertainment Group against Thomas Mount. Unlawful and Fraudulent Business Practice Cal. Bus. & Prof. Code § 17200. et seq. Nature of Suit: (62 (Dischargeability - 523(a)(2), 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)),(65 (Dischargeability - other)) (Cohen, Baruch)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Thomas Mount

Represented By
Christopher Hewitt

Defendant(s):

Thomas Mount

Represented By
Christopher Hewitt

Plaintiff(s):

Jonathan Baker

Represented By
Baruch C Cohen

Baker Entertainment Group

Represented By
Baruch C Cohen

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01163 Revere Financial Corporation v. Burns

#18.00 Motion for Judgment on the Pleadings re Answer by Don C. Burns

EH__

Docket 137

Tentative Ruling:

FED. R. CIV. P. Rule 12(c) & (f), incorporated into bankruptcy proceeds by FED. R. BANKR. P. Rule 7012(b), state the following:

(c) **Motion for Judgment on the Pleadings.** After the pleadings are closed – but early enough not to delay trial – a party may move for judgment on the pleadings.

(f) **Motion to Strike.** The Court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:

(1) on its own; or

(2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading.

There are several potentially applicable definitions of "judgment." For instance, FED. R. CIV. P. Rule 54(a) states, in pertinent part: " 'Judgment' as used in these rules includes a decree and any order from which an appeal lies." FED. R. BANKR. P. Rule 9001(7) includes an additional definition of judgment. The most specific, and therefore, most appropriate, definition of judgment is contained in FED. R. BANKR. P. Rule 9002(5), which provides:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 8, 2019

Hearing Room 303

2:00 PM

CONT...

Douglas Jay Roger

Chapter 7

The following words and phrases used in the Federal Rules of Civil Procedure made applicable to cases under the Code by these rules have the meaning indicated unless that are inconsistent with the context:

(5) "Judgment" includes any order appealable to an appellate court.

Leave to amend pleadings is to be granted liberally, and the law on the issue is unsettled, meaning that the Court would not prohibit Defendant from amending its answer. *See* FED. R. CIV. P. Rule 15(a)(2), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7015, ("The Court should freely give leave when justice so requires."). As a result, even if the Court did strike Defendants' affirmative defenses for being insufficiently pled, it does not appear that the relief requested by Plaintiff could be construed as a judgment, since Defendant would be free to amend their answer in response.

This conclusion is supported by the case law cited by Plaintiff in its argument section. The Court takes issue with Plaintiff's fundamental misrepresentation of the caselaw it is citing. There are two sentences in the argument section of docket number 137 which stand for the proposition that a motion for judgment on the pleadings as to affirmative defenses is a proper procedural approach, neither of which are adequately supported by relevant caselaw.

The first sentence is on lines 12-14 of page 10, and states: "A court will grant a motion for judgment pleadings against a defendant's affirmative defenses if the affirmative defenses are insufficiently pled." This statement is followed by the following citation: *Westport Ins. Corp. v. N. Cal. Relief*, 76 F. Supp. 3d 869, 882 (N.D. Cal. 2014); *Nyberg v. Portfolio Recovery Assocs., LLC*, 2016 WL 3176585 at *2 (D. Or. 2016); *see also Pac. W. Grp. v. Real Time Solutions*, 2008 U.S. App. LEXIS 27037, *1-3 (9th Cir. 2008) ("The district court properly granted partial judgment on the pleadings. . . ."); *Savage v. Council on Am.-Islamic Relations, Inc.*, 2008 WL 2951281, at *2 (N.D. Cal. 2008). Three of these four cases appear irrelevant to the issue before the Court. The district court in *Westport Ins.* concluded that standard judgment on the pleadings (i.e. judgment on the Plaintiff's own causes of action) was

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appropriate in that case notwithstanding the existence of affirmative defenses raised in the answer. The Ninth Circuit in *Pac. W.* dealt with a defendant's motion for partial judgment on the pleadings, yet Plaintiff has decided to arbitrarily include the citation with a quotation that "[t]he district court properly granted partial judgment on the pleadings." Likewise, the district court in *Savage* dealt with a defendant's motion for partial judgment on the pleadings. *Nyberg* does stand for the assertion made by Plaintiff, but the district court in that case engaged in no analysis of the characterization and simply decided to defer to the characterization adopted by the plaintiff.

The second sentence is at lines 3-4 of page 11, and states: "A court should grant judgment on the pleadings if the answer contains insufficient affirmative defenses." This statement cites *Westport* and FED. R. CIV. P. Rule 12(f). *Westport* does support the quoted sentence, but is not applicable to a motion for judgment *as to affirmative defenses*. And Plaintiff is not moving under Rule 12(f) so that citation is inapposite.

Presumably, the reason that Plaintiff has adopted this questionable procedural approach is that a motion under Rule 12(f) is no longer available, absent permission of the Court, because the deadline for that motion has passed. Nevertheless, Plaintiff then shifts to cases applying Rule 12(f) without disclosing the same. In presenting the applicable legal standard, Plaintiff next cites *Ross v. White*, 2018 WL 3419647 (C.D. Cal. 2018) and *Ganley v. Cnty. of San Mateo*, 2007 WL 902551 (N.D. Cal. 2007). Both of these cases deal with Rule 12(f) and contain no mention of Rule 12(c).

Given that Plaintiff has filed a Rule 12(c) motion, but declined to support the motion with adequate caselaw, it is somewhat unclear how this Court should proceed. The Court finds the following well-reasoned analysis, from *Jou v. Adalian*, 2017 WL 3624340 at *2-*4 (D. Hi. 2017) to be particularly helpful:

The court next addresses whether the Motion is timely. If filed as a motion to strike an "insufficient defense" under Rule 12(f), then it is barred by Rule 12(f)(2), which requires that a Rule 12(f) motion be filed "within 21 days after being served with the pleading." But if filed as a motion for failure "to state a legal defense to a claim under Rule 12(h)(2)(B), then it is timely.

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As a starting point, most courts appear to assume that *any* motion to strike an affirmative defense must be brought under Rule 12(f).

But these cases largely ignore Rule 12's second method of challenging an affirmative defense – Rule 12(h)(2)(B). As stated, this rule permits the filing of a Rule 12(c) motion for failure to state a legal defense to a claim. So, the question becomes how to reconcile Rule 12(f) and Rule 12(h)(2)(B). More specifically, what is the difference between challenging an "insufficient defense" under Rule 12(f) and challenging the failure to state a "legal defense" to a claim under Rule 12(h)(2)(B)? In answering this question, the court follows some general rules of statutory constructions. The court starts, of course, with plain meaning. And an interpretation that gives effect to every clause is generally preferable to one that does not. As a corollary rule, no provision should be construed to be entirely redundant. Thus, a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.

As an initial matter, the court rejects the view that Rule 12(h)(2)(B) simply allows a Rule 12(f) motion to be filed beyond the deadline set forth in Rule 12(f). This interpretation renders meaningless Rule 12(f)(2)'s requirement that a Rule 12(f) motion be filed within twenty-one days of service of the complaint. And, it fails to recognize the difference between an "insufficient" and a "legal" defense.

The court concludes that the difference between an "insufficient defense" and the failure to "state a legal defense to a claim" is based on the *type* of challenge being made. A claim of an "insufficient defense" covers a broader array of possible challenges than one claiming failure to state a "legal defense." In fact, while every failure to state a "legal defense" would also likely be an "insufficient defense," the reverse isn't true – some defenses can be insufficient but still state a legal defense. This follows from the definition of "legal defense" as a complete and adequate defense in a court of law. If a defense is not a complete and adequate one, it is not a legal defense. So, for example, if an affirmative defense of laches is not available as a matter of law in a particular case, then the plaintiff could move under Rule 12(h)(2)(B) (via Rule 12(c)) for judgment on the pleadings as to that defense. But if a

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Plaintiff simply claims that an affirmative defense as pled is too conclusory or boilerplate, then that claim does not challenge legal adequacy; instead, it asserts that the defense is insufficient as pled. This reading of Rule 12(f) and 12(h)(2)(B) gives meaning to both provisions and avoids finding any provision superfluous.

Here, Plaintiff simply claims that the majority of affirmative defenses are boilerplate and conclusory – i.e., they are insufficient as pled. The court thus construes the Motion as being brought pursuant to Rule 12(f). And because it was filed many months late, it is untimely.

[Citations, quotations, and footnotes omitted]. The Court also notes that the thorough analysis provided by the district court in *Jou* also resolves this Court's earlier-stated concerns about the definition of "judgment"; if an affirmative defense is truly unavailable as a matter of law, then there would be no reason to permit leave to amend.

Therefore, in line with the reasoning outlined above, the Court is inclined to DENY the motion with respects to the six affirmatives defenses that Plaintiff contends were inadequately pled. The proper remedy for Plaintiff was to file a Rule 12(f) motion, which, at present, would be untimely.

The Court will, however, consider whether the remaining six affirmative defenses are unavailable as a matter of law. Those six defenses are: (1) failure to state a claim; (2) Business Judgment Rule; (3) Setoff/Recoupment; (4) Unlawful restrain from engaging in a lawful profession under Cal. Bus. & Prof. Code § 16600; (5) Indemnification; (6) No damage. While not explicitly stated as an affirmative defense, the Court will also consider Defendant's reservation of rights to assert other affirmative defenses, and non-waiver of any defenses not plead.

The Court first, using its authority to strike sua sponte under FRCP 12(f)(1), finds that "reservation of rights and non-waiver" is not a legal, affirmative defense, and is properly stricken as a matter of law. *See, e.g., A.K.C. v. City of Santa Ana*, 2010 WL

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11469021 at *2 (C.D. Cal. 2010). The Court further agrees with Plaintiff, for the reasons set forth in the Motion, that the first and ninth defenses, failure to state and claim and no damage, simply negate an element of the claims that Plaintiff is already required to provide. As a result, these two affirmative defenses are not properly characterized as affirmative defenses because Plaintiff is already required to prove the opposite. *See, e.g., Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1088 (9th Cir. 2002) ("A defense which demonstrates that plaintiff has not met its burden of proof is not an affirmative defense.").

The Court agrees with Plaintiff that Defendant's second affirmative defense, the Business Judgment Rule, is insufficient as a matter of law in this matter. The Business Judgment Rule only protects the directors of a corporation from shareholder or creditor action based on the soundness of their business decisions. *Tindall v. First Solar*, 892 F.3d 1043, 1047 (9th Cir. 2018). Here, Defendant, an attorney, is attempting to use the rule to justify his legal services to his client. Unlike in the case of corporate directors, this Court is, by its nature, very well positioned to evaluate the wisdom of legal decisions. *See Id.* Accordingly, the Court strikes this defense.

The Court also agrees with Plaintiff that the third affirmative defense, setoff, is unavailable in the context of fraudulent and preferential transfer claims. *Calvert v. Erdman (In re Northwest Terr. Mint, LLC)*, 591 B.R. 852, 867 (W.D. Wa. Bankr. 2018) (citing *In re Acequia, Inc.*, 34 F.3d 800, 817 (9th Cir. 1994)). Accordingly, the Court strikes this defense.

Defendant's sixth defense claims that Plaintiff's action is barred by Cal. Bus. & Prof. Code § 16600, which voids contracts restraining anyone from engaging in a lawful profession, trade, or business. Cal. Bus. & Prof. Code § 16600 (2019). Defendant appears to be trying to use § 16600 to allege that Plaintiff's complaint is an attempt to unlawfully restrain Defendant from engaging in an unlawful profession. As § 16600 only covers contracts, the Court finds this defense insufficient as a matter of law and strikes the defense.

Defendant's seventh affirmative defense is for indemnification, claiming that debtor's bankruptcy estate is obligated to indemnify Defendant for any damages awarded to

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Plaintiff. Indemnification is not an affirmative defense, but a claim that must be "pleaded and proven." *Norddeutscher Lloyd v. Jones Stevedoring Co.*, 490 F.2d 648, 650 (9th Cir. 1973). The Court accordingly strikes Defendant's affirmative defense of indemnification as insufficient as a matter of law.

TENTATIVE RULING

The Court is inclined to GRANT the motion IN PART, striking the First, Second, Third, Sixth, Seventh, and Ninth affirmative defenses with prejudice, and DENY the remainder of the Motion without prejudice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Defendant(s):

Don Cameron Burns

Represented By
Don C Burns

Movant(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Helen R. Frazer (TR)

Represented By

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Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

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Adv#: 6:18-01089 Mata et al v. National Collegiate Student Loan Trust 2006-1 et a

#19.00 CONT Motion For Summary Judgment

From: 2/27/19, 3/27/19

Also #20

EH__

Docket 33

Tentative Ruling:

MARCH 27TH, 2019

PROCEDURAL BACKGROUND

On December 31, 2013, John & Livier Mata ("Debtors") filed a Chapter 7 voluntary petition. On April 14, 2014, Debtors received a discharge, and the following day their case was closed.

On April 18, 2018, Debtors filed a complaint against National Collegiate Student Loan Trust 2006-1, National Collegiate Student Loan Trust 2006-4, and National Collegiate Student Loan Trust 2007-1 (collectively, "Defendants") seeking for determination of dischargeability. Specifically, Debtors seek a declaratory judgment that their loans were discharged. On May 18, 2018, Defendants filed their answer.

On January 9, 2019, Defendants filed a motion for summary judgment. On February 5, 2019, Debtors filed their opposition. Defendants filed their reply to Debtor's opposition on February 13, 2019. This matter has been continued once by the Court.

FACTUAL BACKGROUND

The background of the extant case is simple, but the underlying context is far more complex.

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First Marblehead Corporation is a formerly NYSE listed private company that, in the mid-2000's, was a dominant player in the private student loan business. In early 2001, it purchased the operating assets of The Education Resources Institute (hereinafter "TERI"), a nonprofit group primarily involved in the guaranteeing of private student loans. Beginning in 2001, First Marblehead established a financial plan under which banks would offer private student loans, which would then be collected and repackaged into National Collegiate Student Loan Trusts (hereinafter "NCSLT"), which would all be, at least ostensibly, guaranteed by TERI, intended to grant the loans protection from discharge, and were finally offered on the open market for investment. The banks involved in the funding of these loans include JP Morgan, HSBC, Citizens, PNC, and, in this particular case, Charter One, among many others. There were 15 NCSLTs in total, owning more than 800,000 private loans worth billions of dollars.¹

Beginning in 2005, First Marblehead became increasingly aggressive in expanding loan volume to riskier debtors and increasing the value of those loans. As the economy began its downturn in 2007, default rates began rapidly increasing, resulting in the eventual bankruptcy of TERI in 2008.

The question of the nature of the dischargeability of the NCSLT loans has since been taken on by bankruptcy courts across the country. This is one of those cases.

John Mata took out three \$30,000 loans as part of his graduate studies in counseling at Loma Linda University. These occurred in January of 2006, September of 2006, and August of 2007. Each loan was cosigned by Livier Mata, and carried a respective interest rate of 9, 12, and 14%. The loan agreements each stated that the loan was explicitly limited to the costs of attending the school, and one of the loans, that of January 2006 said that TERI was guaranteeing the loan, while the latter two stated that TERI had the option to guarantee the loan. Each of these loans was allegedly then repackaged into the one of the three trusts who are currently the Defendants in this matter (NCSLT 2006-1, 2006-4, 2007-1).

LEGAL STANDARD

Summary judgment should be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. FED. R. CIV. P. Rule 56(a) (incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7056).

The moving party has the burden of establishing the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). If the moving party

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shows the absence of a genuine issue of material fact, the nonmoving party must go beyond the pleadings and identify facts that show a genuine issue for trial. *Id.* at 324. The court must view the evidence in the light most favorable to the nonmoving party. *Bell v. Cameron Meadows Land Co.*, 669 F.2d 1278, 1284 (9th Cir. 1982). All reasonable doubt as to the existence of a genuine issue of fact should be resolved against the moving party. *Hector v. Wiens*, 533 F.2d 429, 432 (9th Cir. 1976).

If the moving party meets its initial burden, the non-moving party must set forth, by affidavit or as otherwise provided in Rule 56, specific facts showing that there is a genuine issue for trial. *Id.* However, the non-moving party "must do more than simply show that there is some metaphysical doubt as to the material fact...." *Matsushita Electrical Industry Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-587 (1986).

A fact is material if it "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.*

LEGAL ANALYSIS

Defendants are seeking to show that Debtors' debts are exempt from discharge under 11 U.S.C. § 523.

11 U.S.C. § 523(a)(8) states:

(a) A discharge under section 727, 1141, 1228(a), or 1328(b) of this title does not discharge an individual debtor from any debt –

(8) unless excepting such debt from discharge would impose an undue hardship on the debtor and the debtor's dependents, for –

(A)(i) an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

(ii) an obligation to repay funds received as an educational benefit, scholarship or stipend; or

(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue

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Code of 1986, incurred by a debtor who is an individual

Defendants have stated that their motion for summary judgment is based purely nondischargeability of the debt under 11 U.S.C. § 523(a)(8)(A)(i), and the Court will treat Defendants' and Debtors' argument accordingly. In order for Defendants to establish that Debtors' debts aren't dischargeable under § 523(a)(8)(A)(i), they must prove two elements:

- 1 that the loans to the Debtors were "educational loans" and;
- 2 that the loans were made under any program funded in whole or in part by a nonprofit institution.

It is important to note that discussion of the determination of the dischargeability of student debts, including the discussions that occurred within the court cases cited, all occurs under the shadow of the general rule that exceptions to discharge are to be construed narrowly in favor of the debtor. 4 COLLIER ON BANKRUPTCY P 523.05 (Richard Levin & Henry J. Sommer eds., 16th ed.).

I. Whether Debtors' loans were "educational loans."

Courts analyze whether loans are "educational loans" separately from considering whether they are "qualified educational loans" under 26 U.S.C. § 221. *In re Oliver*, 499 B.R. 617, 623-4 (Bankr. S.D.In. 2013). § 523(a)(8)(A)(i) requires that the loans be "educational loans", while § 523(a)(8)(B) has a higher standard, requiring that the loans be "qualified educational loans." *Id.* (finding that all qualified educational loans are educational loans, but not all educational loans are qualified). The 9th Circuit Bankruptcy Appellate Panel has followed this approach, holding that an "educational loan" was distinct from an "educational benefit" or a "qualified educational loan." *See Kashikar v. Turnstile Capital Mgmt., LLC (In re Kashikar)*, 567 B.R. 160, 166 (9th Cir. BAP 2017).

The question of whether a loan is an "educational loan" is determined by its stated purpose, not its actual use. *See Busson-Sokolik v. Milwaukee Sch. of Eng'g (In re Busson-Sokolik)*, 635 F.3d 261, 266 (7th Cir. 2011). The fact that a debtor spent loan proceeds in excess of tuition and expenses does not except debt from discharge. *Murphy v. Pa. Higher Educ. Assistance Agency*, 282 F.3d 868, 873 (5th Cir. 2002). Educational purpose encompasses both tuition and fees, as well as room, board, and miscellaneous personal expenses, as part of the school's general cost of attendance as calculated by statute. *Id.* at 872-3 (citing 20 U.S.C. § 1087II(2)-(3)). It is up to the individual schools to calculate their reasonable costs of attendance, which determines the disbursement by lenders (with debtors having the choice of how much of said disbursement to accept and use).

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Each of the respective loans in this matter was explicitly restricted to the costs of attending Linda Loma University. (Decl. Bradley Luke, ECF 33, Exhibit A-1 (page 12) (January 2006 loan), Exhibit A-5 (page 57) (September 2006 loan), Exhibit A-9 (page 98) (August 2007 loan)). This appears to clearly state their purpose.

Debtors seeks to challenge the status of the loans as "educational loans" on three grounds. The first is that the amounts disbursed were far in excess of Linda Loma's graduate cost of attendance. The second is that the loans carry an unusually high interest rate, have high origination fees, and required a cosigner and credit check. The third is that the loans are not educational loans because they were provided directly to the consumer and ignored the school's financial aid office.

While limitation to the cost of attendance is an aspect of "qualified educational loans" not "educational loans", disbursement in great excess of the actual amount needed for educational purpose does argue against a finding that the loan was intended for educational purposes and for a purpose closer to a "student credit card" as the Debtors argue. However, Debtors inexcusably attempts to present the mere tuition cost and mandatory fees of the cost of attending Linda Loma, while completely ignoring the room and board and other miscellaneous expenses explicitly included in the calculations of the true cost of attendance. *See Plaintiff's Opposition to Motion for Summary Judgment*, Exh. 3 at 25, ECF No. 46 (finding a cost of attendance for Loma Linda of 19,640 purely through the addition of the average full-time graduate tuition of 17,760 and the required fees of 1,880, as reported by Institutional Characteristics). By contrast, Debtors have shown that the amounts were in line with Linda Loma's stated cost of attendance for graduate students. *Supplemental Request for Judicial Notice* Exh. 1-3, ECF No. 565 (showing that the tuition costs of Debtor's program rose from between \$33,480-\$47,895 to \$39,960-57-160 over the course of his three years of attendance, while also showing room and board calculations of more than \$15,000 for each year that Debtor attended).

On the second, the Court finds, as other courts have, that commercial features cannot disqualify a loan from being educational, with the sole test being its purpose. *Page v. JP Morgan Chase Bank (In re Page)*, 592 B.R. 334, 336 (8th Cir. BAP 2018). On the third, the Court repeats its finding that purpose controls over form, while also noting that other courts have analyzed direct to consumer loans and the question of whether the loan was disbursed directly to the consumer was a complete non-factor in their decision as to whether they were "educational loans" or not. *See id.*; *see also McDaniel v. Navient Solutions Inc. (In re McDaniel)*, 590 B.R. 537, 542, 546-551 (Bankr. D.Colo. 2018).

In view of the above, the Court cannot find, even after drawing all reasonable

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inferences for the Debtors' that they have established any genuine issues of material fact, or questions of law, as to the question of whether these loans were "educational loans."

II. Whether the loans were "funded, in whole or in part, by a nonprofit institution."

In the current case, Defendants' claim to exemption from discharge under 11 U.S.C. § 523(a)(8)(A)(i) is dependent on their showing that a nonprofit has funded the loan program under which the loan was made, either in whole, or in part. Defendants argue that the guarantee of the loan program through which Debtors' loan was made by The Education Resources Institute (TERI), a nonprofit institution, satisfies this requirement. This splits the question into two elements. First, whether TERI's guarantee is considered to have legally "funded" the loan program in question. Secondly, whether TERI did in fact guarantee the loans at issue, an issue of factual, not legal, controversy. Debtors raises a third issue, by arguing that the TERI's alleged voiding of the guarantees of the loans in question should strip the loans retroactively of their status as being guaranteed by a nonprofit institution.

A. Whether a nonprofit can "fund" a loan program through guaranteeing the loans.

This question has been litigated throughout several districts, often involving the NCSLTs, with the general consensus of the courts being that a nonprofit guaranteeing a loan functions is the nonprofit funding, in whole or in part, the loan program under which the educational loan was made. *See O'Brien v. First Marblehead Educ. Res., Inc. (In re O'Brien)*, 419 F.3d 104, 106 (2nd Cir. 2005); *see also Educ. Res. Inst. Inc. v. Taratuska (In re Taratuska)*, 2008 U.S. Dist. LEXIS 93206 at *17-18 (D. MA 2008) (*reversing In re Taratuska*, 374 B.R. 24, 29 (Bankr. D.MA 2007), the only case cited by Debtors supporting their position that guaranteeing and funding are two separate actions, meaning that nonprofits aren't "funding" the loan through their guarantee). The 9th Circuit Bankruptcy Appellate Panel agrees with this line of reasoning, interpreting (A)(i) as covering "an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit or nonprofit institution." *Inst. of Imaginal Studies v. Christoff (In re Christoff)*, 527 B.R. 624, 632 (9th Cir. BAP 2015). However, the BAP's interpretation of (A)(i) has never been litigated.

In contrast to the general trend cited above, the District of Maine reached an opposite conclusion, finding that the guarantee of a loan by a nonprofit did not constitute the "funding" of the loan. *Wiley v. Wells Fargo Bank, N.A. (In re Wiley)*, 579 B.R. 1, 6-7 (Bankr. D.Me. 2017). The *Wiley* court built this finding on their interpretation of *O'Brien*, stating that it required the nonprofit to both guarantee the loan and fund the

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loan program, as well as on *Educ. Res. Inst., Inc. v. Hammarstrom* (*In re Hammarstrom*), 95 B.R. 160, 165 (Bankr. N.D. Cal. 1989). *In re Wiley*, 579 B.R. at 6-7. However, there are two problems with there interpretation. The first is that *Hammerstrom*'s requirement of the direct funding of the loan, as received by the debtor, by the nonprofit was explicitly challenged by the 9th Circuit Bankruptcy Appellate Panel in *HEMAR Service Corp., Inc. v. Pilcher*, 149 B.R. 595, 600 (9th Cir. BAP 1993) (reversing the bankruptcy court's holding that a student loan could be discharged due to lack of a nonprofit providing the actual funds that debtor received, and finding that *Hammarstrom*'s requirement was a pure judicial construction, with the real test being whether the nonprofit had played "any meaningful part" in making the funds available under the program). Secondly, the *Wiley* court's interpretation of *O'Brien* is deeply flawed at best. The 2nd Circuit in *O'Brien* did state that the nonprofit had to "fund" the program, however, it defined "funding" using the bankruptcy court's test which required that the nonprofit actually pay out the guarantees when the triggering event occurred, and that the loan program's existence was causally linked to the nonprofit's provision of a guarantee to the for-profit lender for the loan. *See O'Brien*, 419 F.3d at 105-6 (specifically adopting the test created by the S.D.N.Y. Bankruptcy Court in *In re O'Brien*, 318 B.R. 258, 260-1 (Bankr. S.D.N.Y. 2005)).

The Court finds persuasive the consensus of courts around the country that a nonprofit's guaranteeing of a loan program satisfies the requirement of "funding" under 11 U.S.C. § 523(a)(8)(A)(i) for the purposes of exempting a loan from discharge, including that of the 9th Circuit Bankruptcy Appellate Panel, and also adopts this interpretation. As such, the Court agrees with Defendants that, if TERI has in fact guaranteed the loan program in question, they are entitled to judgment as a matter of law.

B. Whether Defendant has established that there is no genuine issue of material fact that TERI actually guaranteed the loan.

1. Did TERI, on paper, guarantee the loans?

Debtors argue that there is a material issue of fact concerning whether or not TERI was the actual guarantor of the September 2006 and August 2007 loans. This is based in part on two related grounds: the first is that two of the three loan agreement do not explicitly state that TERI will guarantee the loans, merely that they have the option to do so. The mere existence of an option, rather than direct proof that TERI in fact guaranteed the loan program in question, has been found sufficient to create a genuine issue of material fact. *See Golden et. al v. JP Morgan Chase Bank, et. al.*, 596 B.R. 239, 266 (Bankr. E.D.N.Y. 2019). The second issue raised by Debtors is that the NSCLT trust agreement schedules does not specifically list the NextStudent Graduate

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Loan as one of the programs transferred or sold to the Trusts (listing instead NextStudent Alternative Loan Program). This has also been found sufficient to create a material issue of fact. *See National Coll. Student Loan Trust 2007-4 v. Watson*, 2016 N.Y. Misc. LEXIS 5116 at *7 (N.Y.City Civ.Ct. 2016).

However, it is clear within this case that Debtor's loans were in fact guaranteed by TERI, and that they were each sold to the respective trusts that make up the defendants. Defendants have disclosed the Loan Financial Activity pages, which identify Debtors by name, and also state that the loans were guaranteed by TERI. Decl. Luke ¶15; *Id.* Exh. A-3 (page 18 within the declaration). It also includes the identification by social security number of Debtor within the trusts' contained loans, as well as guarantee agreements between TERI and each of the individual trusts. By contrast, in *Golden*, the genuine issue of material fact was due to the Defendants only providing the loan documentation stating that the loan potentially could be guaranteed by TERI. In short, the Court cannot find that there is a genuine issue of fact as to whether TERI, on paper, guaranteed the loan program which provided Debtors' loans.

2. Was TERI actually guarantee the loans?

In order to fund a loan program through guaranteeing the loans, the guarantee must actually come into effect, instead of just being a paper promise to render the debt exempt from discharge. *See O'Brien*, 419 F.3d at 105-6. Debtors' student loan servicer has declared that Debtors' student loans were guaranteed by TERI, but Debtors allege that the guarantees did not actually occur. Decl. Luke ¶¶ 17, 25, 34 (ECF No. 33-4). As noted by Debtors, evidence demonstrating the actual guarantee by TERI of the loans within the loan program would include guarantee agreements between TERI and the loan originators and, evidence that the loan originators actually paid TERI guarantee fees as agreed upon. *See Plaintiff's Opposition to Defendants' Motion for Summary Judgment*, Exh. 4, Defendants Responses and Objections to Requests for Production No. 7, ECF No. 46 (Debtors requesting "all documents demonstrating that TERI guaranteed the loans" including checks payable by the loan originators to TERI for the guarantee fees and guarantee agreements between TERI and the loan originators).

However, Debtors appear to have answered this question themselves, when they showed that Defendants had refunded the Royal Bank of Scotland (who wholly owned, at the time of Debtors' loan creation Citizens Bank, who owned Charter One, the loan originator) \$46,000,000 in guarantee fees as part of resolving RBS secured claims against TERI concerning loans extended prior to TERI's bankruptcy. *Id.* at Exh. 6, Fourth Amended Joint Plan of Reorganization of The Education Resources Institute, Inc at page 65; *Id.* at 11 (defining "collateral account" as a pledged account, victory fund, pool account, or joint pool account—all of which were accounts

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containing guarantee fees intended for the payment of guarantees should the conditions be triggered); *see also* Supplementary Request for Judicial Notice, Exh. 4, Disclosure Statement for Fourth Amended Joint Plan of Reorganization of The Education Resources Institute at pages 3-7, ECF No. 55 (explaining how the myriad banks decided how TERI should segregate or not segregate the guarantee fees they paid in view of paying out guarantees on the loan). The massive balances on the collateral accounts of the NCSLTs, including all three trusts in question, revealed by the disclosure statement to the confirmed Fourth Amended Plan, shows that the combined guarantee fees sequestered for guarantee payments, as well as the recoveries collected, numbered in the hundreds of millions of dollars. Disclosure Statement at page 11.

It is difficult for this Court to find that Debtors have raised a genuine question of fact as to the substance of TERI's guarantees, when the Debtors themselves have put forward clear evidence that tens of millions of dollars were being paid in guarantee fees to TERI, including tens of millions by Charter One, and TERI was simultaneously shelling out tens of millions of dollars in loan purchases as part of the guarantee.

- C. Whether TERI has voided their guarantee of the loan program in question, and whether, if shown, this would retroactively change whether the loans were funded by a nonprofit institution.*

Debtors correctly assert that TERI's debt guarantees for loans extended prior to TERI's petition were voided as a part of their confirmed plan for reorganization. Fourth Amended Plan at page 40, ECF No. 46. Defendants appear to be trying to confuse the Court by pointing to the transition agreement between TERI and RBS through which RBS agreed to accept the transfer of "pipeline" loans (loans applied for before, or on TERI's petition, but extended by the lender after). *See* Plaintiff's Opposition, Exh. 5, Transition Agreement Between TERI and RBS at pages 3-4. However, it is clear that the settling of the guarantees for loans prior to bankruptcy, as illustrated above, was the foundation of TERI's reorganization, and the Court proceeds accordingly.

However, even if the guarantee is no longer extant, the Court does not find that this changes the fundamental nature of how the loans were funded in the first place. § 523(a)(8)(A)(i) states that the exemption of a loan from discharge is dependent on the loan program under which it was made, not the context under which it still exists. The exemptions under § 523 look at actions of the debtor at the time that they took the action in question, not the status of those actions at the time of the current proceedings. Debtor should not be allowed to discharge a debt that he knew was intended to be exempt at the time he made the loan, was made under a program clearly

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intended to protect the loans from discharge, and would still be exempt at the current time, barring the fact that the guarantor collapsed because too many other debtors had defaulted on their loans.

As such, the Court finds unpersuasive the argument that the rejection of TERI's argument that TERI's bankruptcy has retroactively changed the status of Debtors' debt.

TENTATIVE RULING

THE COURT FINDS THAT DEFENDANTS ARE ENTITLED TO JUDGMENT AS A MATTER OF LAW, AND THAT THERE ARE NO GENUINE DISPUTES OF MATERIAL FACT. DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IS HEREBY GRANTED.

Party Information

Debtor(s):

John Martin Mata

Represented By
Michael E Clark

Defendant(s):

National Collegiate Student Loan

Represented By
Damian P Richard
James Schultz

NATIONAL COLLEGIATE

Represented By
Damian P Richard
James Schultz

National Collegiate Student Loan

Represented By
Damian P Richard
James Schultz

Joint Debtor(s):

Livier Mata

Represented By
Michael E Clark

Movant(s):

National Collegiate Student Loan

Represented By

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Damian P Richard
James Schultz

NATIONAL COLLEGIATE

Represented By
Damian P Richard
James Schultz

National Collegiate Student Loan

Represented By
Damian P Richard
James Schultz

Plaintiff(s):

John Martin Mata

Represented By
Michael E Clark
Austin C Smith

Livier Mata

Represented By
Michael E Clark
Austin C Smith

Trustee(s):

Helen R. Frazer (TR)

Pro Se

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6:13-30625 John Martin Mata

Chapter 7

Adv#: 6:18-01089 Mata et al v. National Collegiate Student Loan Trust 2006-1 et a

#20.00 CONT-Status Conference RE: [1] Adversary case 6:18-ap-01089. Complaint by John Martin Mata, Livier Mata against National Collegiate Student Loan Trust 2006-1, NATIONAL COLLEGIATE STUDENT LOAN TRUST 2006-4, National Collegiate Student Loan Trust 2007-1. (Charge To Estate) - Filing Fee Not Required. Determination of Discharge Under 11 U.S.C. Sect 523(a)(8) Nature of Suit: 63 - Dischargeability - 523(a)(8), student loan, 91 - Declaratory judgment

From: 6/27/18, 8/22/18, 2/27/19, 3/27/19

Also #19

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Martin Mata

Represented By
Michael E Clark

Defendant(s):

National Collegiate Student Loan

Represented By
Damian P Richard
James Schultz

NATIONAL COLLEGIATE

Represented By
Damian P Richard
James Schultz

National Collegiate Student Loan

Represented By
Damian P Richard
James Schultz

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CONT... John Martin Mata

Chapter 7

Joint Debtor(s):

Livier Mata

Represented By
Michael E Clark

Plaintiff(s):

John Martin Mata

Represented By
Michael E Clark
Austin C Smith

Livier Mata

Represented By
Michael E Clark
Austin C Smith

Trustee(s):

Helen R. Frazer (TR)

Pro Se

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6:13-18779 Rigoberto Baez

Chapter 13

#1.00 CONT Motion For Order Denying Discharge Or Dismissing Case

From: 1/31/19, 2/28/19, 3/14/19, 4/11/19, 4/25/19

EH__

Docket 172

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/25/19**

Tentative Ruling:

1/31/19

BACKGROUND

On May 17, 2013, Rigoberto Baez ("Debtor") filed a Chapter 13 voluntary petition. On June 25, 2013, Debtor's Chapter 13 plan was confirmed. Debtor's Chapter 13 plan was subsequently amended on two occasions.

On December 6, 2018, Trustee filed a notice of final cure mortgage payment. On December 27, 2018, Wells Fargo Bank N.A. filed a response, stating that Debtor was \$11,338.57 delinquent in post-confirmation payments.

On December 28, 2018, Trustee filed a motion to deny discharge or, in the alternative, dismiss the case. Because Trustee has only provided legal analysis support dismissal of the case, not citing any legal basis to deny a discharge in this situation, the Court will consider the motion as a motion to dismiss. On January 16, 2019, Debtor filed his opposition. The opposition asserts that Debtor disputes Wells Fargo's accounting, and that Debtor will work with Wells Fargo to resolve the situation.

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CONT... Rigoberto Baez

Chapter 13

DISCUSSION

As noted by Trustee, 11 U.S.C. § 1307(c)(6) states:

(c) Except as provided in subsection (f) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including ---

(6) material default by the debtor with respect to a term of a confirmed plan

Trustee asserts that direct payments to Wells Fargo are payments under the plan, and the default in this case is material. Debtor has not provided any contrary legal authority on either point. The Court agrees with Trustee that direct payments to a lender are still considered payments under the plan. *See, e.g., In Matter of Kessley*, 655 Fed. Appx. 242, 244 (5th Cir. 2016); *see also In re Evans*, 543 B.R. 213 (Bankr. E.D. Va. 2016) (collecting cases). The Court also agrees that the post-confirmation default of \$11,338.57 is material, assuming that that figure is accurate.

TENTATIVE RULING

Debtor to apprise the Court of the status of the post-confirmation delinquency and any efforts to resolve the situation with Wells Fargo. Absent resolution, the Court is inclined to GRANT the motion.

APPEARANCES REQUIRED.

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CONT... Rigoberto Baez

Chapter 13

Party Information

Debtor(s):

Rigoberto Baez

Represented By
Michael Smith
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:14-13931 Annie Estrada

Chapter 13

#2.00 Motion to vacate dismissal

EH__

Docket 137

Tentative Ruling:

5/9/19

BACKGROUND

On March 28, 2014, Annie Estrada ("Debtor") filed a Chapter 13 voluntary petition. On August 6, 2014, Debtor's Chapter 13 plan was confirmed. The Chapter 13 plan was subsequently modified twice.

On January 7, 2019, Trustee filed a motion to dismiss for delinquency, identifying a delinquency of approximately two months. After two continuances, the Court granted the motion to dismiss, allowing Debtor a ten-day period to convert to Chapter 7 in lieu of dismissal. On April 15, 2019, Debtor filed a notice to conversion to Chapter 7; that notice, however, was withdrawn approximately two hours later. On April 22, 2019, Debtor's case was dismissed.

On April 24, 2019, Debtor filed a motion to vacate dismissal, asserting that Debtor had obtained funds to cure the delinquency on April 15, 2019. The funds do not appear to have been received by Trustee until the day after dismissal, but Debtor's counsel states that he spoke with the Chapter 13 Trustee on April 15, 2019, and that Counsel was under the impression that the case was not going to be dismissed. On April 25, 2019, Trustee filed comments indicating approval, subject to proper notice being given and Debtor submitting copies of her 2018 tax returns.

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CONT... Annie Estrada

Chapter 13

On April 26, 2019, Debtor filed an amended motion to vacate dismissal.

DISCUSSION

The Court notes that Debtor has set this matter for hearing on shortened noticed without filing an application shortening time. Debtor's notice of hearing sets an opposition deadline of April 25, 2019, *the day before the notice was filed*. Therefore, notice is improper.

TENTATIVE RULING

The Court is inclined to CONTINUE the matter to May 30, 2019. Debtor to give notice of the continuance to all parties in interest.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Annie Estrada

Represented By
Chris A Mullen

Movant(s):

Annie Estrada

Represented By
Chris A Mullen
Chris A Mullen

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CONT... Annie Estrada

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:15-10929 Christopher John Helme

Chapter 13

#3.00 Application for Compensation with Notice of Opportunity to Request a Hearing on Motion and Proof of Service for Todd L Turoci, Debtor's Attorney, Period: 2/7/2019 to 3/14/2019, Fee: \$350.00, Expenses: \$.

EH__

Docket 175

Tentative Ruling:

Having reviewed the supplemental declaration of Debtor, the Court is inclined to APPROVE the application in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Christopher John Helme

Represented By
Todd L Turoci

Movant(s):

Christopher John Helme

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:15-13351 Hector Davalos Nuno and Nanci Tomoye Nuno

Chapter 13

#4.00 CONT Application for Compensation for Additional Fees and Related Expenses in a Pending Chapter 13 Case Subject to a RARA with attached Exhibit A and Proof of Service for Jenny L Doling, Debtor's Attorney, Period: 2/6/2019 to 3/14/2019, Fee: \$1250.00, Expenses: \$0.

From: 4/25/19

EH__

Docket 75

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hector Davalos Nuno

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Nanci Tomoye Nuno

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Hector Davalos Nuno

Represented By
Jenny L Doling
Summer M Shaw

Nanci Tomoye Nuno

Represented By
Jenny L Doling
Summer M Shaw

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CONT... Hector Davalos Nuno and Nanci Tomoye Nuno

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:17-13599 Maurice Frank Manceau

Chapter 13

#5.00 CONT Application for Compensation of Attorney for Debtor for Additional Fees and Related Expenses in a Pending Chapter 13 Case Subject to a RARA with attached Exhibits and Proof of Service for Jenny L Doling, Debtor's Attorney, Period: 12/5/2018 to 3/6/2019, Fee: \$930.00, Expenses: \$0.

From: 4/25/19

EH__

Docket 99

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maurice Frank Manceau

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Maurice Frank Manceau

Represented By
Jenny L Doling
Jenny L Doling
Summer M Shaw
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:17-17037 Luis A Andrade and Sarah Marie Andrade

Chapter 13

#6.00 Motion for Allowance and Payment of Administrative Expense

EH__

Docket 114

Tentative Ruling:

5/9/19

BACKGROUND

On August 22, 2017, Luis & Sarah Andrade ("Debtors") filed a Chapter 13 voluntary petition. On September 28, 2017, the Court approved a stipulation between Cab West, LLC ("Cab West") and Debtors, which provided for Debtors to assume a lease with Cab West for a 2017 Ford F150 and to make direct payments to Cab West. On October 4, 2017, Debtors' Chapter 13 plan was confirmed.

On April 5, 2019, Cab West filed a motion for allowance of an administrative expense. According to the motion, the lease of the Ford F150 matured in February 2019, and Debtors incurred unpaid charges of \$1,512.62. Cab West requests an administrative priority expense pursuant to 11 U.S.C. § 503(b)(1)(A).

DISCUSSION

11 U.S.C. § 503(b)(1)(A) states:

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CONT...

Luis A Andrade and Sarah Marie Andrade

Chapter 13

(b) After notice and hearing, there shall be allowed administrative expenses, other claims allowed under section 502(f) of this title, including –

(1)(A) the actual, necessary costs and expenses of preserving the estate including ---

Among other cases, Cab West cites *In re Masek* in supports of its argument. *In re Masek* stated, in pertinent part, that:

A debtor’s assumption of a lease or executory contract changes the posture of the relationship between the parties to the contract. Some courts have explained the act of assuming a least as an act of administration that created an obligation of the postpetition bankruptcy estate which is legally distinct from the obligations of the parties prior to the assumption. A breach of the assumed obligations therefore constitutes a post-petition breach of post-petition obligations under 11 U.S.C. § 365(g)(2)(A), and is afforded administrative expense priority. Allowance of administrative expenses under § 503(b)(1)(A), combined with the power to assume an executory contract or unexpired lease in a Chapter 13 plan under § 1322(b)(7), renders claims resulting from assumption of a lease actual and necessary costs of preserving the bankruptcy estate. *Pearson* was a Chapter 13 case in which the debtors assumed, then defaulted on, a vehicle lease. The court allowed an administrative claim for the \$6,000 balance due under the lease after the car was surrendered and sold.

301 B.R. 336, 337-38 (Bankr. D. Neb. 2003) (citations and quotations omitted). *But see Ford Motor Credit Co. v. Benn*, 362 B.R. 1, 6 (E.D. Mich. 2007) (affirming bankruptcy court’s disagreement with *Masek*).

For the reasons articulated in *In re Masek*, 301 B.R. 336 (Bankr D. Neb. 2003) and *In re Michalek*, 393 B.R. 642, (Bankr. E.D. Wis. 2008), and noting that service appears proper and no party has objected, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h),

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CONT... Luis A Andrade and Sarah Marie Andrade

Chapter 13

TENTATIVE RULING

The Court is inclined to GRANT the motion, ALLOWING Cab West an administrative claim in the amount of \$1,512.62.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Luis A Andrade

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Sarah Marie Andrade

Represented By
Terrence Fantauzzi

Movant(s):

Cab West, LLC

Represented By
Sheryl K Ith
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:17-17589 Ryan Patrick McHugh and Jennifer Lynne McHugh

Chapter 13

#7.00 Motion for Turnover of Property

EH__

Docket 78

Tentative Ruling:

5/9/2019

BACKGROUND

On September 11, 2017, Ryan & Jennifer McHugh ("Debtors") filed a Chapter 13 voluntary petition. On November 9, 2017, Debtors' Chapter 13 plan was confirmed. The plan has subsequently been modified twice.

On April 7, 2019, Debtors filed a motion for turnover, requesting turnover from Wexler Wallace LLP of certain funds received from a confidential personal injury settlement.

DISCUSSION

The Court notes that service appears improper for several reasons. First, it does not appear that Wexler Wallace LLP has been served with the instant motion at all. Second, a motion for turnover is, at the least, a contested matter under FED. R. BANKR. P. Rule 9014 and, therefore, the Rule 7004 service requirements apply. Finally, Rule 7001(1) requires that a motion for turnover, with certain exceptions not applicable here, requires an adversary proceeding. While this requirement may be waivable in

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CONT... Ryan Patrick McHugh and Jennifer Lynne McHugh

Chapter 13

certain circumstances, service of the underlying motion here is inadequate.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Joint Debtor(s):

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Movant(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:17-19892 Lena Dolores Wade

Chapter 13

#8.00 CONT Application for Compensation of Attorney for Debtor for Additional Fees and Related Expenses in a Pending Chapter 13 Case Subject to a RARA with attached Exhibit A and Proof of Service for Jenny L Doling, Debtor's Attorney, Period: 1/15/2018 to 10/24/2018, Fee: \$1630.00, Expenses: \$0.

From: 4/25/19

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lena Dolores Wade

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Lena Dolores Wade

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-11081 Stephen Daniel Payan

Chapter 13

#9.00 Application for Compensation for Hallstrom, Klein & Ward, LLP, Debtor's Attorney, Period: to, Fee: \$2345, Expenses: \$0.

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Daniel Payan

Represented By
Paul J Kurtzhall

Movant(s):

Hallstrom, Klein & Ward, LLP

Represented By
Paul J Kurtzhall

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:18-15766 Deborah A Neville and Ronnie L Neville

Chapter 13

#10.00 CONT Stipulation regarding modifying plan

From: 4/11/19

EH__

Docket 63

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Deborah A Neville

Represented By
Hayk Grigoryan

Joint Debtor(s):

Ronnie L Neville

Represented By
Hayk Grigoryan

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-17079 Ronald A Carter

Chapter 13

#11.00 Motion to Allow Claim 2

EH__

Docket 37

Tentative Ruling:

5/9/19

BACKGROUND:

On August 21, 2018, Ronald Carter ("Debtor") filed a Chapter 13 voluntary petition. The claims bar date was October 30, 2018. On November 13, 2018, Debtor's Chapter 13 plan was confirmed.

On April 10, 2019, U.S. Bank Trust National Association ("Creditor") filed a proof of claim for a secured claim in the amount of \$312,650.60 ("Claim 2"), as well as a motion to allow Claim 2. Creditor's argues that because it did not receive notice of the bankruptcy, and because it is in the Debtor's best interest, Claim 2 should be allowed. The Court notes that Creditor has not provided any legal argument in support of its position.

ANALYSIS:

FED. R. BANKR. P. Rule 3003(c)(3) provides for the creation of a claim bar deadline, and FED. R. BANKR. P. Rule 3002(c) provides certain exceptions to the rule that claims must be timely filed. Creditor has not argued that any of these exceptions apply. The

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CONT... Ronald A Carter

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Court notes that recent amendments resulted in the creation of FED. R. BANKR. P. Rule 3002(c)(6)(A). While case law on the recent amendment is sparse, it does not appear that the amendment is applicable to this situation. *See* 9 COLLIER'S ON BANKRUPTCY ¶ 3002.03[7] (16th ed. 2017) ("A creditor may not argue under Rule 3002(c)(6)(A) that the notice was insufficient for reasons other than those caused by the untimely filing of the list of creditors.").

"[T]he Ninth Circuit has repeatedly held that the deadline to file a proof of claim in a Chapter 13 proceeding is 'rigid,' and the bankruptcy court lacks equitable power to extent this deadline after the fact." *In re Barker*, 839 F.3d 1189, 1197 (9th Cir. 2016). "By virtue of Rule 9006(b)(3), a bankruptcy court does not have discretion to enlarge the time periods fixed by Rule 3002(c) nor permit an untimely claim when none of Rule 3002(c)'s five exceptions is applicable." *In re Hayes*, 327 B.R. 453, 458 (Bankr. C.D. Cal. 2005) (footnote omitted); *see also In re Edelman*, 237 B.R. 146, 152 (B.A.P. 9th Cir. 1999). Here, none of Rule 3002(c)'s exceptions apply.

In response to Creditor's argument that allowance of Claim 2 is in the Debtor's best interests, the Court notes that 11 U.S.C. § 502(a) provides that a proof of claim is deemed allowed until a party in interest objects. While the Court will not affirmatively deem the late-filed Claim 2 to be allowed, in the absence of any objection Claim is deemed allowed.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Ronald A Carter

Chapter 13

Debtor(s):

Ronald A Carter

Represented By
M. Wayne Tucker

Movant(s):

U.S. Bank Trust National

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:18-19358 Erik A Morales

Chapter 13

#12.00 Motion to Disallow Claim No 4 AMERICAN EXPRESS

Also #13 - #15

EH__

Docket 32

Tentative Ruling:

5/9/19

BACKGROUND:

On November 1, 2018, Erik Morales ("Debtor") filed a Chapter 13 voluntary petition. On January 30, 2019, Debtor's Chapter 13 plan was confirmed

On December 31, 2018, American Express National Bank filed two proofs of claim: (1) an unsecured claim in the amount of \$658.39 ("Claim 4"); and (2) an unsecured claim in the amount of \$4,658.03 ("Claim 5"). On January 7, 2019, LVNV Funding, LLC filed a proof of claim for an unsecured claim in the amount of \$866.99 ("Claim 8").

On April 8, 2019, Debtor filed objections to Claim 4, Claim 5, and Claim 8. Debtor argues that all three claims are unenforceable due to the statute of limitations.

APPLICABLE LAW:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Erik A Morales

Chapter 13

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Erik A Morales

Chapter 13

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 4 is based on a credit card debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of February 2010. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 4 is unenforceable.

Claim 5 is based on a credit card debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of February 2010. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 5 is unenforceable.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Erik A Morales

Chapter 13

Claim 8 is based on "retail." This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of September 6, 2004. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 8 is unenforceable.

TENTATIVE RULING

The Court is inclined to GRANT the motions, DISALLOWING Claim 4, Claim 5, and Claim 8.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Erik A Morales

Represented By
Paul Y Lee

Movant(s):

Erik A Morales

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:18-19358 Erik A Morales

Chapter 13

#13.00 Motion to Disallow Claims CLAIM 5 AMERICAN EXPRESS

Also #12 - #15

EH__

Docket 33

Tentative Ruling:

5/9/19

BACKGROUND:

On November 1, 2018, Erik Morales ("Debtor") filed a Chapter 13 voluntary petition. On January 30, 2019, Debtor's Chapter 13 plan was confirmed

On December 31, 2018, American Express National Bank filed two proofs of claim: (1) an unsecured claim in the amount of \$658.39 ("Claim 4"); and (2) an unsecured claim in the amount of \$4,658.03 ("Claim 5"). On January 7, 2019, LVNV Funding, LLC filed a proof of claim for an unsecured claim in the amount of \$866.99 ("Claim 8").

On April 8, 2019, Debtor filed objections to Claim 4, Claim 5, and Claim 8. Debtor argues that all three claims are unenforceable due to the statute of limitations.

APPLICABLE LAW:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Erik A Morales

Chapter 13

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Erik A Morales

Chapter 13

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 4 is based on a credit card debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of February 2010. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 4 is unenforceable.

Claim 5 is based on a credit card debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of February 2010. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 5 is unenforceable.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Erik A Morales

Chapter 13

Claim 8 is based on "retail." This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of September 6, 2004. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 8 is unenforceable.

TENTATIVE RULING

The Court is inclined to GRANT the motions, DISALLOWING Claim 4, Claim 5, and Claim 8.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Erik A Morales

Represented By
Paul Y Lee

Movant(s):

Erik A Morales

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:18-19358 Erik A Morales

Chapter 13

#14.00 Motion to Disallow Claim 8 LVNV FUNDING

Also #12 - #15

EH__

Docket 34

Tentative Ruling:

5/9/19

BACKGROUND:

On November 1, 2018, Erik Morales ("Debtor") filed a Chapter 13 voluntary petition. On January 30, 2019, Debtor's Chapter 13 plan was confirmed

On December 31, 2018, American Express National Bank filed two proofs of claim: (1) an unsecured claim in the amount of \$658.39 ("Claim 4"); and (2) an unsecured claim in the amount of \$4,658.03 ("Claim 5"). On January 7, 2019, LVNV Funding, LLC filed a proof of claim for an unsecured claim in the amount of \$866.99 ("Claim 8").

On April 8, 2019, Debtor filed objections to Claim 4, Claim 5, and Claim 8. Debtor argues that all three claims are unenforceable due to the statute of limitations.

APPLICABLE LAW:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Erik A Morales

Chapter 13

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Erik A Morales

Chapter 13

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 4 is based on a credit card debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of February 2010. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 4 is unenforceable.

Claim 5 is based on a credit card debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of February 2010. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 5 is unenforceable.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Erik A Morales

Chapter 13

Claim 8 is based on "retail." This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of September 6, 2004. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 8 is unenforceable.

TENTATIVE RULING

The Court is inclined to GRANT the motions, DISALLOWING Claim 4, Claim 5, and Claim 8.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Erik A Morales

Represented By
Paul Y Lee

Movant(s):

Erik A Morales

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:18-19358 Erik A Morales

Chapter 13

#15.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

Also #12 - #14

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Erik A Morales

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-10103 Jeffrey Allan Cohn

Chapter 13

#16.00 Order to show cause why Stephen Burton should not be sanctioned in the amount of \$1000

Also #17

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey Allan Cohn

Represented By
Stephen L Burton

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-10103 Jeffrey Allan Cohn

Chapter 13

#17.00 CONT Confirmation of Chapter 13 Plan

From: 3/28/19

Also #16

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey Allan Cohn

Represented By
Stephen L Burton

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-10276 Julie Michelle Tsosie

Chapter 13

#18.00 CONT Confirmation of Chapter 13 Plan

From: 3/28/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Michelle Tsosie

Represented By
Alon Darvish

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-10633 Johna Sue Gibson

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Johna Sue Gibson

Represented By
Manfred Schroer

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-10773 Stacie Lynn Tellez

Chapter 13

#20.00 CONT Confirmation of Chapter 13 Plan

From: 4/25/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stacie Lynn Tellez

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-10849 Vincent James Carabba

Chapter 13

#21.00 CONT Confirmation of Chapter 13 Plan

From: 4/25/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vincent James Carabba

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-10922 Carlos G Rodriguez and Rita S Rodriguez

Chapter 13

#22.00 CONT Confirmation of Chapter 13 Plan

From: 4/25/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlos G Rodriguez

Represented By
Christopher Hewitt

Joint Debtor(s):

Rita S Rodriguez

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-10932 Malta Centeno Lambert

Chapter 13

#23.00 CONT Confirmation of Chapter 13 Plan

From: 4/25/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malta Centeno Lambert

Represented By
Yelena Gurevich

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11087 Joyce M Hightower

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 3/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joyce M Hightower

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11090 Angela Clarice Atou

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angela Clarice Atou

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11103 Golda Y Williams

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Golda Y Williams

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11106 Kervin Rayal Routt

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kervin Rayal Routt

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11116 Julie Gamido

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Gamido

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11121 David Vogel

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 4/23/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Vogel

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11122 Martin Ontiveros

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martin Ontiveros

Represented By
Allan O Cate

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11129 Patrick M Reilly and Karen J Reilly

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patrick M Reilly

Represented By
James T Lillard

Joint Debtor(s):

Karen J Reilly

Represented By
James T Lillard

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11133 Jerry Arnold La Cues and Pamela Ann La Cues

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/27/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerry Arnold La Cues	Pro Se
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Joint Debtor(s):

Pamela Ann La Cues	Pro Se
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Trustee(s):

Rod Danielson (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11147 Pedro Ramirez

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pedro Ramirez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11148 Pedro Lopez

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pedro Lopez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11149 Eddy Guillen

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddy Guillen

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11150 Martha Calleros

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martha Calleros

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11159 Mary Tejuoso

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/1/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mary Tejuoso

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11202 Raul Gonzales

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 3/5/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Raul Gonzales

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11204 Gregory Lee Haan, Jr. and Yisel Haan

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gregory Lee Haan Jr.

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Yisel Haan

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11213 Juvenal Garcia Vargas and Gabriela Garcia

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juvenal Garcia Vargas

Represented By
Sundee M Teeple

Joint Debtor(s):

Gabriela Garcia

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11253 David Frisinga

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/11/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Frisinga

Represented By
Amid Bahadori

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11262 Corazon Batacan Dotimas

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/11/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Corazon Batacan Dotimas

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11281 Nadia Michelle Lipscomb

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nadia Michelle Lipscomb

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11298 Zahra Boeshagi

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 2/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zahra Boeshagi

Represented By
Dennis C. Winters

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11311 Bernardo Ondajon Pamplona

Chapter 13

#45.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bernardo Ondajon Pamplona

Represented By
Hasmik Jasmine Papian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11320 Dominick Romero

Chapter 13

#46.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/11/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dominick Romero

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11710 Heather Ann Pessoa Bond

Chapter 13

#47.00 CONT Motion for Order Determining Value of Collateral [11 U.S.C. § 506(a), FRBP 3012]: 2015 Chrysler 200

From: 4/25/19

EH__

Docket 25

Tentative Ruling:

According to the court in *In re Morales*, 387 B.R. 36 (Bankr.C.D.Cal.2008), the retail values, and not the private party values, are the appropriate starting points for property valuation because the text of 11 U.S.C. § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Kelly Blue Book report identifying the private party value of the Chrysler 200. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

4/25/2019

SERVICE: PROPER

OPPOSITION: NONE

The Court is inclined to CONTINUE the hearings for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Heather Ann Pessoa Bond

Chapter 13

Movant(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11323 Blake Jeffrey Simpson

Chapter 13

#48.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 3/11/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Blake Jeffrey Simpson

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11370 Michael Wright

Chapter 13

#49.00 Motion for Setting Property Value of 2015 Chevrolet Cruze

Also #50 & #51

EH__

Docket 14

Tentative Ruling:

5/9/19

BACKGROUND

On February 22, 2019, Michael Wright ("Debtor") filed a Chapter 13 voluntary petition. On March 12, 2019, Debtor filed two motions to value collateral. The first motion deals with a 2015 Chevrolet Cruze (the "Chevrolet Cruze Motion"); the second motions relates to a 2013 Land Rover Range Rover (the "Land Rover Motion").

DISCUSSION

Regarding the Chevrolet Cruze, the Court notes that Altura CU filed a proof of claim on March 7, 2019, which itself identifies the value of the collateral as \$7,469. Therefore, based upon the express agreement of Altura CU, the Court will GRANT the Chevrolet Cruze Motion.

Regarding the Land Rover Motion, the Court notes that Arrowhead Credit Union filed

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Michael Wright

Chapter 13

a proof of claim on March 25, 2019, which identifies the value of the collateral as \$20,206. Therefore, based upon the express agreement of Arrowhead Credit Union, the Court will GRANT the Land Rover Motion.

TENTATIVE RULING

The Court is inclined to GRANT the motions in their entirety.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michael Wright

Represented By
Terrence Fantauzzi

Movant(s):

Michael Wright

Represented By
Terrence Fantauzzi
Terrence Fantauzzi
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11370 Michael Wright

Chapter 13

#50.00 Motion for Setting Property Value of 2013 Land Rover Range Rover

Also #49 & #51

EH__

Docket 15

Tentative Ruling:

5/9/19

BACKGROUND

On February 22, 2019, Michael Wright ("Debtor") filed a Chapter 13 voluntary petition. On March 12, 2019, Debtor filed two motions to value collateral. The first motion deals with a 2015 Chevrolet Cruze (the "Chevrolet Cruze Motion"); the second motions relates to a 2013 Land Rover Range Rover (the "Land Rover Motion").

DISCUSSION

Regarding the Chevrolet Cruze, the Court notes that Altura CU filed a proof of claim on March 7, 2019, which itself identifies the value of the collateral as \$7,469. Therefore, based upon the express agreement of Altura CU, the Court will GRANT the Chevrolet Cruze Motion.

Regarding the Land Rover Motion, the Court notes that Arrowhead Credit Union filed

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Michael Wright

Chapter 13

a proof of claim on March 25, 2019, which identifies the value of the collateral as \$20,206. Therefore, based upon the express agreement of Arrowhead Credit Union, the Court will GRANT the Land Rover Motion.

TENTATIVE RULING

The Court is inclined to GRANT the motions in their entirety.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michael Wright

Represented By
Terrence Fantauzzi

Movant(s):

Michael Wright

Represented By
Terrence Fantauzzi
Terrence Fantauzzi
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11370 Michael Wright

Chapter 13

#51.00 Confirmation of Chapter 13 Plan

Also #49 & #50

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Wright

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11371 Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

#52.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Warren Alan Hall

Represented By
Lionel E Giron

Joint Debtor(s):

Kelly Suzanne Hall

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11385 Jeffrey Pierce

Chapter 13

#53.00 Confirmation of Chapter 13 Plan

EH__

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/12/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey Pierce

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-11399 Jeremiah M Moore

Chapter 13

#54.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeremiah M Moore

Represented By
Tom A Moore

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

6:19-13123 Susana Olga Corona

Chapter 13

#54.10 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: SUSANA O. CORONA

From: 5/7/19

EH__

Docket 11

Tentative Ruling:

5/7/2019

Service: Proper
Opposition: None

11 U.S.C. § 362(c)(3)(C)(i)(II)(cc) creates a rebuttable presumption that this case was filed in bad faith because Debtor failed to perform the terms of her previously confirmed plan. Section 362(c)(3)(C) requires that Debtor submit "clear and convincing" evidence to rebut this presumption. Here, Debtor has only provided general evidence that she experienced a significant and temporary decrease in income, and increase in expenses, without include the supporting details necessary to clearly and convincingly rebut the presumption of bad faith. Therefore, the Court is inclined to CONTINUE the hearing to May 9, 2019, for Debtor to file a supplemental declaration.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Susana Olga Corona

Represented By
Christopher J Langley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:00 AM

CONT... Susana Olga Corona

Chapter 13

Movant(s):

Susana Olga Corona

Represented By

Christopher J Langley

Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-20292 Humberto Vergara

Chapter 13

#55.00 Trustee's Motion to Dismiss Case

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Humberto Vergara

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:15-19930 Melinda Kay Allen

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melinda Kay Allen

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:16-10257 Cecilia Orozco and Sergio Orozco

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 51

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cecilia Orozco

Represented By
Majid Safaie
Manfred Schroer

Joint Debtor(s):

Sergio Orozco

Represented By
Majid Safaie
Manfred Schroer

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:16-14084 Martin Linares and Elvia Linares

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 86

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martin Linares

Represented By
Craig K Streed
Sundee M Teeple

Joint Debtor(s):

Elvia Linares

Represented By
Craig K Streed
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:16-20925 Reynauldo J Pennywell and Joyce D Pennywell

Chapter 13

#59.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reynauldo J Pennywell

Represented By
Michael Smith
Sundee M Teeple

Joint Debtor(s):

Joyce D Pennywell

Represented By
Michael Smith
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:16-21234 Frank A Horzen and Barbara A Horzen

Chapter 13

#60.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/19

EH__

Docket 117

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/8/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank A Horzen

Represented By
Paul Y Lee

Joint Debtor(s):

Barbara A Horzen

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:16-21236 Ronald A Waters and Trisha Waters

Chapter 13

#61.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/19

EH__

Docket 70

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/8/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ronald A Waters

Represented By
Paul Y Lee

Joint Debtor(s):

Trisha Waters

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:17-10787 Willie J Brooks

Chapter 13

#62.00 CONT Trustee's Motion to Dismiss Case re Delinquency

From: 4/25/19

Also #63

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Willie J Brooks

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:17-10787 Willie J Brooks

Chapter 13

#63.00 CONT Trustee's Motion to Dismiss Case re Infeasibility of Plan

From: 4/25/19

Also #62

EH__

Docket 49

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Willie J Brooks

Represented By
Kevin Tang

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:17-10811 Manuel Huertas

Chapter 13

#64.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Manuel Huertas

Represented By
Marcella Lucente

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:17-12011 Joshua Lawrence Ferguson and Wendy Mae Ferguson

Chapter 13

#65.00 Trustee's Motion to Dismiss Case

EH__

Docket 46

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/8/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Lawrence Ferguson

Represented By
Stephen H Darrow

Joint Debtor(s):

Wendy Mae Ferguson

Represented By
Stephen H Darrow

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:17-14619 Candice Maria Borrego

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH__

Docket 94

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Candice Maria Borrego

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:17-20240 Natona Smith and Tameiko Smith

Chapter 13

#67.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/19

EH__

Docket 34

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/8/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Natona Smith

Represented By
Natalie A Alvarado

Joint Debtor(s):

Tameiko Smith

Represented By
Natalie A Alvarado

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-11701 Wayne Anthony King and Traci Ann Zweck

Chapter 13

#68.00 Trustee's Motion to Dismiss Case

EH__

Docket 82

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Wayne Anthony King

Represented By
Dana Travis

Joint Debtor(s):

Traci Ann Zweck

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-13172 Michelle Cadena Quinn

Chapter 13

#69.00 Trustee's Motion to Dismiss Case

EH__

Docket 65

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Cadena Quinn

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-13742 Elizabeth Lucas

Chapter 13

#70.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

*** VACATED *** REASON: CASE DISMISSED 4/29/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elizabeth Lucas

Represented By
Steven A Wolvek

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-15541 Alejandro Guillen and Karla Guillen

Chapter 13

#71.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alejandro Guillen

Represented By
Neil R Hedtke

Joint Debtor(s):

Karla Guillen

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-15617 Juan Vargas and Anabely E Vargas

Chapter 13

#72.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/19

EH__

Docket 54

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/8/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Vargas

Represented By
Todd L Turoci

Joint Debtor(s):

Anabely E Vargas

Represented By
Todd L Turoci

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-16983 Lakendra Johnson

Chapter 13

#73.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

*** VACATED *** REASON: CASE DISMISSED 4/25/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lakendra Johnson

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-16996 Gabriel Cruz

Chapter 13

#74.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 35

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/8/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gabriel Cruz

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-17633 Debra Kristeen Schuler

Chapter 13

#75.00 Trustee's Motion to Dismiss Case

EH__

Docket 25

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Debra Kristeen Schuler

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-17784 David John Stoykovich, Jr. and Merlina Lynn Burton

Chapter 13

#76.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/18, 4/25/19

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David John Stoykovich Jr.

Represented By
Todd L Turoci

Joint Debtor(s):

Merlina Lynn Burton

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-17869 Michael Ferriola

Chapter 13

#77.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Ferriola

Represented By
Keith Q Nguyen

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-17883 Norberto Calalay Jimenez and Araceli Corrales Jimenez

Chapter 13

#78.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/3/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Norberto Calalay Jimenez

Represented By
Christopher J Langley

Joint Debtor(s):

Araceli Corrales Jimenez

Represented By
Christopher J Langley

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-18478 Jose Granados and Norma Granados-Maycott

Chapter 13

#79.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Granados

Represented By
Todd L Turoci

Joint Debtor(s):

Norma Granados-Maycott

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 9, 2019

Hearing Room 303

11:01 AM

6:18-19044 Kimberly Ida McGee Hager

Chapter 13

#80.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 23

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/8/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kimberly Ida McGee Hager

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 14, 2019

Hearing Room 303

2:00 PM

6:16-19947 Melissa Lynn Dixson

Chapter 7

#1.00 CONT Show Cause Hearing RE: [13] Motion For Contempt Violation Discharge Order

From: 1/9/19, 2/27/19, 3/27/19, 4/24/19, 5/8/19

EH__

Docket 13

Party Information

Debtor(s):

Melissa Lynn Dixson

Represented By
Bryant C MacDonald

Movant(s):

Melissa Lynn Dixson

Represented By
Bryant C MacDonald

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-13514 Michael Ray Sandoval

Chapter 13

#1.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 1244 Euclid Avenue Ontario, CA 91762

MOVANT: MICHAEL RAY SANDOVAL

EH__

Docket 9

Tentative Ruling:

TENTATIVE RULING:

May 21, 2019

Service: Proper
Opposition: None

The failure by creditors to oppose this motion will be treated as consent under LBR 9013-1(f)(3). However, the Court must still come to an independent conclusion as to whether the stay should be continued under 11 U.S.C. § 362(c).

11 U.S.C. § 362(c)(3)(C)(i)(II)(cc) establishes a presumption of bad faith for a Chapter 13 petition if a Debtor has had a previous plan dismissed within the past year for failure to perform the plan as confirmed. § 362(c)(3)(C)(i)(III)(cc) states that the question of bad faith includes the failure to provide evidence that the new plan will be confirmed and fully completed. Defeating this presumption requires a showing of clear and convincing evidence of good faith, including evidence that the Debtor will be able to confirm and complete the new plan.

A review of the motion indicates clear and convincing evidence sufficient to rebut the presumption of bad faith. The Court is thus inclined to GRANT Debtor's motion to continue the stay.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Michael Ray Sandoval

Chapter 13

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Ray Sandoval

Represented By
Jaime A Cuevas Jr.

Movant(s):

Michael Ray Sandoval

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-13081 Miguel Hugo Garcia and Laura Gonzalez

Chapter 7

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Lincoln Continental, VIN: 1LN6L9SP8H5612716

MOVANT: CAB WEST, LLC

EH__

Docket 8

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Miguel Hugo Garcia

Represented By
Donald M Medeiros

Joint Debtor(s):

Laura Gonzalez

Represented By
Donald M Medeiros

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Miguel Hugo Garcia and Laura Gonzalez

Chapter 7

Movant(s):

Cab West, LLC

Represented By
Jennifer H Wang

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-12961 LEA HERRERA

Chapter 7

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Ford Fusion VIN 3FA6P0G70GR385844

MOVANT: FORD MOTOR CREDIT COMPANY LLC

EH__

Docket 17

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

LEA HERRERA

Represented By
George W Williams

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... LEA HERRERA

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-12808 Luis A Quintero

Chapter 7

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA ACCORD, VIN: 1HGC R2F5 8HA3 06100

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

Docket 7

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Luis A Quintero

Represented By
Paul Y Lee

Movant(s):

American Honda Finance

Represented By
Vincent V Frounjian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Luis A Quintero

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-12450 Corazon D Hernandez De Miranda and Maximo Flores

Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: U 2016 CHEVROLET SILVERADO 1500; VIN NO. 3GCPCREC3GG376890

MOVANT: BANK OF AMERICA, N.A.

EH__

Docket 7

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper

Opposition: None (Debtors state their consent).

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Corazon D Hernandez De Miranda

Represented By
Lionel E Giron

Joint Debtor(s):

Maximo Flores Miranda

Represented By
Lionel E Giron

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Corazon D Hernandez De Miranda and Maximo Flores

Chapter 7

Movant(s):

Bank of America, N.A.

Represented By
Megan E Lees

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-11853 Kathleen Suzanne Sandoval

Chapter 7

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Jeep Cherokee VIN 1C4PJMCB8GW213284

MOVANT: SANTANDER CONSUMER USA INC.

EH__

Docket 14

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Kathleen Suzanne Sandoval

Represented By
Benjamin R Heston

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Kathleen Suzanne Sandoval

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-11594 Alyssa Nichole Nichols

Chapter 7

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Chevrolet Cruze

MOVANT: THE GOLDEN 1 CREDIT UNION

EH__

Docket 10

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Alyssa Nichole Nichols

Represented By
Karen E Lockhart

Movant(s):

The Golden 1 Credit Union

Represented By
Mirco J Haag

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Alyssa Nichole Nichols

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-11271 Enrique Ocampo-Espin

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Kia Sorento, Vehicle Identification Number: 5XYPG4A37HG206495

MOVANT: FIRST TECH FEDERAL CREDIT UNION

EH__

Docket 9

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Enrique Ocampo-Espin

Pro Se

Movant(s):

First Tech Federal Credit Union

Represented By
Nichole Glowin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Enrique Ocampo-Espin

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-11121 David Vogel

Chapter 13

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: (2012 Dodge Journey Vin # 3C4PDCBG2CT353815) , In Addition Movant seeks Relief from Co-Debtor Stay

MOVANT: ALLY BANK

EH__

Docket 19

***** VACATED *** REASON: CASE DISMISSED 4/23/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Vogel

Represented By
Neil R Hedtke

Movant(s):

Ally Bank

Represented By
Adam N Barasch

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-10103 Jeffrey Allan Cohn

Chapter 13

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 185 West Winslow Street, Upland, CA 91786

MOVANT: CIT BANK N.A.

EH__

Docket 44

***** VACATED *** REASON: CASE DISMISSED 5/10/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey Allan Cohn

Represented By
Stephen L Burton

Movant(s):

CIT Bank, N.A., and its successors

Represented By
Christina J O

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:18-20245 Jennifer Lynn Miller

Chapter 13

#11.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 42830 La Brinia Lane Anza, California 92539

MOVANT: CARRINGTON MORTGAGE SERVICES LLC

From: 4/16/19

EH__

Docket 32

*** VACATED *** REASON: ORDER ENTERED 5/13/19

Tentative Ruling:

TENTATIVE RULING

4/16/2019

Opposition: Yes

Service: Proper

Parties to appraise the Court of the status of the arrears and adequate protection discussions, if any.

APPEARANCES REQUIRED

Party Information

Debtor(s):

Jennifer Lynn Miller

Represented By
Nicholas M Wajda

Movant(s):

Carrington Mortgage Services, LLC

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Jennifer Lynn Miller

Chapter 13

S Renee Sawyer Blume
Bonni S Mantovani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:18-20153 Miguel Angel Lopez

Chapter 13

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Dodge Grand Caravan, VIN: 2C4RDGBG6GR360890

MOVANT: AUTOMOTIVE CREDIT CORPORATION

EH__

Docket 30

***** VACATED *** REASON: CASE DISMISSED 5/2/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Angel Lopez

Represented By
Barry E Borowitz

Movant(s):

Automotive Credit Corporation

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:18-19027 Wendy Ramirez

Chapter 13

#13.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 30157 Pine Needle Road, Menifee, CA 92585

MOVANT: FREEDOM MORTGAGE CORPORATION

From: 4/16/19

EH__

Docket 26

***** VACATED *** REASON: ORDER ENTERED 5/15/19**

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: Yes

Parties to apprise Court as to status of adequate protection discussions.

APPEARANCES REQUIRED

Party Information

Debtor(s):

Wendy Ramirez

Represented By
Brian J Soo-Hoo

Movant(s):

Freedom Mortgage Corporation, its

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:18-18557 Gema Beniukoff and Ruben Sotelo

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 29070 Palm View St, Lake Elsinore, CA 92530

MOVANT: U.S. BANK, NATIONAL ASSOCIATION AS LEGAL TITLE TRUSTEE FOR TRUMAN 2016 SC6 TITLE TRUST

EH__

Docket 29

***** VACATED *** REASON: ORDER ENTERED 5/20/19**

Tentative Ruling:

Party Information

Debtor(s):

Gema Beniukoff

Represented By
Amanda G Billyard

Joint Debtor(s):

Ruben Sotelo

Represented By
Amanda G Billyard

Movant(s):

U.S. BANK NATIONAL

Represented By
Diane Weifenbach

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:18-16064 Michael D. Wickham and JoAnn Y. Wickham

Chapter 13

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Jaguar F-Pace Vin No.SADCK2BV5HA088646

MOVANT: JPMORGAN CHASE BANK, N.A.

EH__

Docket 56

*** VACATED *** REASON: ORDER ENTERED 5/14/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael D. Wickham

Represented By
M. Wayne Tucker

Joint Debtor(s):

JoAnn Y. Wickham

Represented By
M. Wayne Tucker

Movant(s):

JPMorgan Chase Bank, N.A.

Represented By
Alexander K Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:18-14855 Gregory Scott Curtis

Chapter 13

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15677 Cactus Street Hesperia, California 92345

MOVANT: CARRINGTON MORTGAGE SERVICES LLC

EH__

Docket 28

***** VACATED *** REASON: CASE DISMISSED 5/2/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gregory Scott Curtis

Represented By
Michael E Clark

Movant(s):

Carrington Mortgage Services, LLC

Represented By
S Renee Sawyer Blume
Bonni S Mantovani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:18-14257 Adam Casey Addison

Chapter 13

#17.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 30285 Eagle Ridge Court, Murrietta, CA 92563-3546

MOVANT: SUN WEST MORTGAGE COMPANY

From: 4/16/19

EH__

Docket 42

***** VACATED *** REASON: ORDER ENTERED 5/10/19**

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C).

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Adam Casey Addison

Represented By
Nima S Vokshori
Luke Jackson

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Adam Casey Addison

Chapter 13

Movant(s):

Sun West Mortgage Company, Inc.,

Represented By
Nichole Glowin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:18-10852 Gilberto Linares

Chapter 13

#18.00 Motion for Relief from Stay 1115 North Park Ave, Rialto, California 92376

MOVANT: U.S. BANK NATIONAL ASSOCIATION

EH__

Docket 62

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper

Opposition: Yes

Parties are to inform the Court as to the status of the cure of the post-conference arrears and the negotiations on an adequate protection agreement.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gilberto Linares

Represented By
Jaime A Cuevas Jr.

Movant(s):

U.S. BANK NATIONAL

Represented By
Sean C Ferry
Theron S Covey

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:17-20377 Deborah L Tafolla

Chapter 13

#19.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6777 Ridgeline Avenue, San Bernardino, CA 92407

MOVANT: NATIONSTAR MORTGAGE LLC

EH__

Docket 52

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of the cure of the post-conference arrears and the negotiations on an adequate protection agreement.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Deborah L Tafolla

Represented By
Christopher J Langley

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Angie M Marth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:17-16227 Shawn L. Johnson

Chapter 13

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6583 Kunzite Court, Mira Loma, California 91752

MOVANT: U.S. BANK NATIONAL ASSOCIATION

EH__

Docket 49

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request for termination of the 11 U.S.C. § 1301(a) co-debtor stay. GRANT relief from Rule 4001 stay. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Shawn L. Johnson

Represented By
Mark S Martinez

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Shawn L. Johnson

Chapter 13

Movant(s):

U.S. Bank National Association, as

Represented By
Nancy L Lee
Darren J Devlin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:17-10742 William Fuentes and Martha C Orozco de Fuentes

Chapter 13

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 867 South Ironwood Avenue, Rialto (Bloomington Area), CA 92316 .

MOVANT: LAKEVIEW LOAN SERVICING LLC

EH__

Docket 47

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request for termination of the 11 U.S.C. § 1301(a) co-debtor stay. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

William Fuentes

Represented By
Marlin Branstetter

Joint Debtor(s):

Martha C Orozco de Fuentes

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

**CONT... William Fuentes and Martha C Orozco de Fuentes
Marlin Branstetter**

Chapter 13

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:14-24888 Jesus Padilla Simental

Chapter 13

#22.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 10176 ADAMS AVE., HUNTINGTON BEACH, CA 92646

MOVANT: BUSINESS PROPERTIES PARTNERSHIP NO. 15

EH__

Docket 95

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to obtain possession of the property. DENY request under ¶ 3 for confirmation that there is no stay in effect for lack of cause shown. DENY request under ¶4 retroactively annulling the stay for lack of cause shown. GRANT request for waiver of the FRBP 4001(a)(3) stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jesus Padilla Simental

Represented By
Bryn C Deb

Movant(s):

BUSINESS PROPERTIES

Represented By
Stephen C Durringer

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Jesus Padilla Simental

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:14-18359 Donnie Edward Southerland and Andrea Marie

Chapter 13

#23.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13576 Canyon Crest Way, Corona, California 92880

MOVANT: WELLS FARGO BANK N.A.

EH__

Docket 131

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT relief from Rule 4001 stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Donnie Edward Southerland

Represented By
Dana Travis

Joint Debtor(s):

Andrea Marie Southerland

Represented By
Dana Travis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Donnie Edward Southerland and Andrea Marie

Chapter 13

Movant(s):

Wells Fargo Bank N.A., et al

Represented By
Diana Torres-Brito
Alexander G Meissner
Bonni S Mantovani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

6:19-13816 Briana Farquharson

Chapter 13

#23.10 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 39415 Ardenwood Way #131 Lake Elsinore, CA 92532

MOVANT: RIDGESTONE PARTNERS, L.P.

CASE DISMISSED 5/20/19

EH__

Docket 7

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to obtain possession of the property. GRANT termination of the § 1301(a) co-debtor stay. WAIVE the FBRP 4001(a)(3) stay. DENY request that a designated law enforcement officer may evict the Debtor for lack of a writ of possession. GRANT ¶9(b) request that this order is binding and effective in any bankruptcy case commenced by or against any debtor who claims any interest in the property, upon recording, for a period of 180 days from the hearing of this motion. GRANT request that the 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 property.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

10:00 AM

CONT... Briana Farquharson

Chapter 13

Debtor(s):

Briana Farquharson

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

2:00 PM

6:19-13133 WILDOMAR ACE HARDWARE INC.

Chapter 11

#24.00 Order (1) Setting Scheduling Hearing And Case Management Conference And
(2) Requiring Status Report

EH__

Docket 3

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

2:00 PM

6:19-13132 RIVERSIDE ACE HARDWARE INC.

Chapter 11

#25.00 Order (1) Setting Scheduling Hearing And Case Management Conference And
(2) Requiring Status Report

EH__

Docket 3

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

2:00 PM

6:19-13131 P&P HARDWARE INC.

Chapter 11

#26.00 Order (1) Setting Scheduling Hearing And Case Management Conference And
(2) Requiring Status Report

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

P&P HARDWARE INC.

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
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Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

2:00 PM

6:19-13130 9 FINGERS INC

Chapter 11

#27.00 Order (1) Setting Scheduling Hearing And Case Management Conference And
(2) Requiring Status Report

EH__

Docket 3

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

9 FINGERS INC

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#28.00 Order (1) Setting Scheduling Hearing And Case Management Conference And
(2) Requiring Status Report

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 21, 2019

Hearing Room 303

2:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#29.00 CONT Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Causes of Action .

MOVANT: ANDRZEJ LUCZYNSKI AND Z&M TRADING, INC.

From: 4/16/19, 4/30/19

EH__

Docket 38

Tentative Ruling:

4/30/2019

Service: Proper
Opposition: Yes.

On February 19, 2019, Anthony Yue Ming Liu ("Debtor") filed a Chapter 11 voluntary petition. On Schedule F, Debtor listed Andrzej Luczynski ("Movant") as the holder of an unsecured claim of \$1,380,000 relating to a civil lawsuit.

On March 12, 2019, Movant filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for tortious exclusion of joint venturer, breach of fiduciary duty, breach of contract, and wrongful eviction. A state court hearing on Debtor's objections to the tentative decision and proposed judgment had been scheduled for February 20, 2019, but was ultimately postponed due to the instant bankruptcy filing. It appears from the contents of the motion that Movant is only requesting to have the state court enter judgment, thereby liquidating Movant's claim.

On April 2, 2019, Debtor filed his opposition. The crux of Debtor's opposition is that the relief from the automatic stay is unnecessary because Movant's claim has been effectively liquidated. Debtor notes that "[t]he only issue remaining is a determination of any costs and attorney's fees, which Debtor has attempted to review for

**United States Bankruptcy Court
Central District of California
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2:00 PM

CONT...

Anthony Yue Ming Liu

Chapter 11

reasonableness in hopes that the parties could avoid unnecessary litigation and expenses regarding the same." [Dkt. No. 49, pg. 4, lines 10-12]. On April 9, 2019, Movant filed a reply, effectively arguing that Debtor's opposition does not contain a legal basis upon which relief from stay could be denied.

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

- (1) Whether the relief will result in a partial or 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 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 good or proceeds in question; (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties; (8) whether the judgment claim arising from the foreign action is subject to equitable subordination; (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). In *Roger*, the Court further stated:

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, May 21, 2019

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2:00 PM

CONT...

Anthony Yue Ming Liu

Chapter 11

administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all.

Here, the *Curtis* factors weigh in favor of granting relief from the automatic stay. First, the relief requested would result in a complete resolution of the issues. Debtor's argument that relief from stay is not necessary to resolve the issue, because the issue could be resolved through the claim objection process in bankruptcy court, is not persuasive to the Court because it does not directly address the first *Curtis* factor and because, presumably, the state court is in a better position to assess the reasonableness of the fees and costs incurred in its own proceedings. Likewise, the second factor weighs in favor of the relief requested because the entry of a judgment in state court will not interfere with the administration of the bankruptcy estate. Debtor has not raised a plausible argument contending otherwise. A choice by Debtor to possibly incur attorney fees arguing the amount of Movant's fees and costs incurred in the state court proceeding does not constitute interference with the administration of the bankruptcy estate. Finally, the Court finds that the tenth through twelfth *Curtis* factors weigh in favor of granting relief from stay, because the state court proceeding progressed to the point where it was ready for trial, and the state court is in a better position to judge the reasonableness of the fees and costs incurred in its own proceeding.

The Court finds that the third through ninth *Curtis* factors are largely irrelevant in this situation and do not materially affect the Court's analysis. Additionally, the Court is not inclined to find that the instant bankruptcy was filed in bad faith. Movant's only argument made to support a bad faith finding is that the instant case was filed on the eve of the anticipated state court judgment. Noting that Debtor scheduled Movant's claim and does not appear to be attempting to undermine the state court proceeding, the Court cannot conclude that Debtor is acting on bad faith simply because he is attempting to satisfy Movant's claim through a Chapter 11 plan of reorganization.

The Court is inclined to GRANT request for relief pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a) stay. GRANT request under ¶ 2. DENY request for relief under ¶ 7 for lack of cause shown.

APPEARANCES REQUIRED

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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2:00 PM

CONT... Anthony Yue Ming Liu

Chapter 11

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Courtesy NEF

Represented By
Dawn M Coulson
Paul M Stoddard
Mark W Edelstein

**United States Bankruptcy Court
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Tuesday, May 21, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#30.00 Application for Compensation First Application for Approval of Fees and Reimbursement of Expenses by Shulman Hodges & Bastian LLP Attorneys for the Debtor and Debtor in Possession; Declaration That No Party Requested a Hearing on Motion of Leonard M. Shulman in Support (with proof of service) for Leonard M Shulman, Debtor's Attorney, Period: 10/2/2018 to 5/7/2019, Fee: \$419,904.35, Expenses: \$14,802.16.

Also #31

EH__

Docket 258

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
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2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#31.00 Application for Compensation for Stapleton Group , Financial Advisor, Period:
to , Fee: \$15255.00, Expenses: \$160.40

Also #30

EH__

Docket 261

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Tuesday, May 21, 2019

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2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#32.00 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Hooks v. Visiting Nurse Association, et al. Docket Number RIC 1900836 Superior Court of CA, County of Riverside

MOVANT: MICHELLE D HOOKS

EH__

Docket 368

Tentative Ruling:

TENTATIVE RULING:

May 21, 2019

Service: Proper
Opposition: No.

Debtor's failure to oppose will be treated as consent under LBR 9013-1(f)(3). However, the Court must still come to an independent conclusion as to Ms. Hooks' (Hooks) motion.

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor") filed a Chapter 11 voluntary petition. Debtor did not list Hooks as a claim holder, as she filed her suit post-petition.

On April 25, 2019, Hooks filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for Negligence on behalf of Michelle Hooks, Negligence on behalf of Anthony Hooks, Dependent Adult Abuse/Neglect, Loss of Consortium, Dependent Adult Abuse/Financial (Wrongful Advantage).

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, May 21, 2019

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2:00 PM

CONT...

Visiting Nurse Association of the Inland Counties

Chapter 11

- (1) Whether the relief will result in a partial or 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 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 good or proceeds in question; (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties; (8) whether the judgment claim arising from the foreign action is subject to equitable subordination; (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). In *Roger*, the Court further stated:

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all.

Here, the *Curtis* factors weigh heavily in Hooks' favor. The purpose of *Curtis* is to balance the harm to a debtor's reorganization plan posed by a creditor's pursuit of a claim in a non-bankruptcy forum with the interests of the judicial system. There is no

**United States Bankruptcy Court
Central District of California
Riverside
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CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

harm to a debtor's reorganization plans if a third party may pay the full amount of a creditor's claim and seek indemnification from the debtor at a later date. *See UI LLC v. Sturgeon Sevs.Int'l*, 2017 U.S. Dist. LEXIS 1777 at *3 (E.D. Cal. 2017) (*citing In re All Seasons Resorts, Inc.*, 79 B.R. 901, 904 (C.D. Cal. Bankr. 1987)). Here, Hooks has stated her clear intent to solely pursue the Debtor's liability insurance policy (Sedgewick Claims Management Services, Inc., Policy No.: 2019665200) and has also waived any deficiency in the judgment against the Debtor or the Debtor's estate. In addition, counsel for Hooks has declared that Debtor's insurance carrier has retained defense counsel for Debtor. When the lack of harm to Debtor's reorganization is balanced with the clear interests of the judicial system in seeking a rapid and efficient resolution to Creditor's pending case, the Court finds sufficient grounds to GRANT Creditor's motion for relief from the stay to pursue pending litigation in a non-bankruptcy forum, and also GRANTS Creditor's request to pursue Debtor's insurance policy.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall

Movant(s):

Michelle D Hooks

Represented By
Tom M Allen

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6:17-15717 AMJ Plumbing Specialists Corp.

Chapter 11

#33.00 Application for Compensation First Amended Application For Compensation And Reimbursement Of Final Fees And Expenses Of Lozano Law Center, Inc.; Declarations Of David Lozano, Esq. And Joe Ruvalcava Support There for David Lozano, General Counsel, Period: 7/7/2017 to 11/27/2018, Fee: \$107196.25, Expenses: \$1128.12.

EH__

Docket 186

Tentative Ruling:

Application: \$90,837 in fees (\$103,367.20 fees performed post-petition, minus \$12,530.25 remaining advanced fee payment), \$1,128.12 in expenses.

Opposition: No.

Analysis: 11 U.S.C. § 330(a)(3) (2005) provides factors to be considered in determining the reasonableness of requested compensation.

Tentative:

On July 7, 2017, AMJ Plumbing Specialists Corp. ("Debtor") filed a Chapter 11 voluntary petition. On October 10, 2017, the Court approved the employment application of Lozano Law Center, Inc. ("Applicant") to serve as counsel to Debtor. Debtor's first amended disclosure statement was approved on June 6, 2018, and Debtor's first amended plan of reorganization was confirmed on August 3, 2018. No interim fee applications have been filed by Applicant.

On November 5, 2018, Applicant filed an application for compensation, requesting allowance and payment of \$119,279 in fees (less a retainer of \$26,000) and \$988.60 in expenses. The Court denied this application without prejudice on November 30, 2018 due to lumping and Applicant's request for fees for work done before Debtor had filed their petition. Applicant subsequently moved the Court on December 14, 2018 to amend the October 10, 2017 employment order to

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retroactively move their date of initial employment to pre-petition. However, this meant that Applicant was stating that Debtor owed them legal fees for work done prior to petition, meaning that Applicant was a creditor of Debtor. On December 19, 2018, the U.S. Trustee ("UST") filed their opposition to Applicant's motion to amend the initial employment order.

In the UST's opposition, they argued that Applicant was ineligible for any compensation, as Applicant had a prepetition claim against Debtor, due to the unpaid prepetition legal fees owed, meaning that Applicant was an interested party in the matter and thus ineligible to serve as an officer of Debtor's estate under 11 U.S.C. § 327(a). In addition, UST also argued that Applicant's employment disclosures were inaccurate, as Applicant had sworn in its disclosures that they were not a creditor of the estate or owed any funds by the estate.

On April 30, 2018, Applicant voluntarily dismissed their motion to modify their employment order and filed their current application for compensation and reimbursement of fees and expenses. The U.S. Trustee has not filed an opposition to the current application and has not renewed their argument that Applicant was ineligible to receive any compensation in the matter.

1. Whether Applicant is entitled to compensation in the first place.

The Court has discretion under 11 U.S.C. § 328(c) to independently review, and potentially deny, allowance of compensation for any professional person if, at any time during the professional's employment under § 327, the professional was not a disinterested person, or held an interest adverse to the interest of the estate with the respect to the matter on which they were employed. The Court does agree with the UST that Applicant's \$3,829.00 claim against Debtor for legal work performed pre-petition rendered Applicant into an interested person in the matter, with their interest being adverse to the interests of the estate. However, the Court, upon review of the work performed by Applicant, and taking into account the small amount of Applicant's pre-petition claim, the UST's decision not to renew their objection to Applicant's compensation, and Applicant's waiver of the pre-petition fees, finds that Applicant's adverse interest does not rise to the level where denial of compensation is warranted.

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2. Whether the compensation request is reasonable.

Pursuant to 11 U.S.C. § 330(a)(1), the court may award reasonable compensation for actual, necessary services. The court has an independent duty to review the fee application in the absence of objections. *See* 11 U.S.C. § 330(a)(2). The court "will not indulge in extensive labor and guesswork to justify a fee for an attorney who has not done so himself." *In re Taylor*, 66 B.R. 390 (Bankr. W.D. Pa. 1986).

11 U.S.C. § 330(a)(3) provides factors to be considered in determining the reasonableness of requested compensation. These factors include time spent, rates charged, necessity of the service, reasonableness of the service, expertise of attorney, and comparable market rates.

The Court first begins by noting that Applicant's services for Debtor appear to have been, overall, generally reasonable and necessary. Applicant's work resulted in Debtor's Chapter 11 reorganization plan being confirmed, as well as the striking or reduction of several major claims against Debtor. Applicant's rates were also reasonable, when compared to comparable market rates and the expertise of the attorneys involved. In addition, Debtor has declared their satisfaction with Applicant's services. However, there are several problems with Applicant's application.

a. Deficiencies caused by a lack of a proper narrative statement.

However, Applicant's application has several major deficiencies, in particular, the barebones nature of the narrative statement of the services rendered during this case, as required by LBR 2016-1(a)(D). While the Court recognizes that the narrative statement is intended to be brief, Applicant has failed to give any guidance to the Court as to the course of the case and the result of the services provided. This lack of detail has forced the Court to engage in extensive guesswork to justify fees, in direct contradiction to the principles set out in *Taylor*. *Taylor*, 66 B.R. 390.

For example, Applicant requests a combined \$8,051 for 27 time entries, totaling 18.4 hours, relating to Ferguson Supplies, a major vendor for Applicant. Firstly, the only reason the Court discovered Ferguson's importance to Applicant was

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through its own initiative in analyzing prior documents filed in this matter. In addition, despite the services performed in relation to Ferguson Supplies approaching 10% of the total compensation request, the Court remains puzzled as to what happened over the course of these services, including the end result. This is heightened by the fact that the bulk of the fees requested are for telephonic conversations and negotiations, and the fact that Ferguson Supplies was not treated under the plan, with it being listed in Debtor's amended schedule F solely to provide it notice. The Court, with solely the information provided before it, cannot justify the \$8,051 request for services performed in regard to Ferguson Supplies at this time.

b. Excessive time expenditure.

In addition, the Court finds issue with the seemingly excessive time spent on some of the entries, as well as the use of attorneys to perform what appears to be clerical work in others. These entries include:

8/11/2017: \$3,825 combined request for nine hours of work, four and a half hours for Frank Alverado and David Lazano each, concerning the amending of multiple schedules, the Debtor's statements of prior cases and financial affairs as well as their summary of assets and liabilities (ECF 48). The Court, upon review of the filing, is inclined to reduce the fees here by 33% to \$2525 due to the excessive time spent.

8/17/2017, 8/18/2017, 8/21/2017, 8/22/2017: Four time entries requesting \$1,596 for four hours of work concerning the preparation and filing of Applicant's motion to employ Applicant as a professional, as well as declaration in support thereof (ECF 58). In light of the relatively short and simple nature of the motion and declaration, the Court finds the time spent here excessive, and is inclined to reduce the fees requested by 50% to \$798.

8/28/2017, 8/29/2017: Two times entries requesting \$1,424 for 3.56 hours of work for brief 3-page motion for joint check agreement, simple declaration in support thereof, and notice of hearing (ECF 59-60). In light of the excessive time spent, the Court is inclined to reduce the fees here by 33% to \$940.

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6/8/2018: \$440 request for a 2-page draft order approving amended Disclosure Statement and Plan (ECF 139). The Court is inclined to reduce the fees here by 50% to \$220 due to the excessive time spent.

6/11/2018: \$880 request for attorney work preparing ballots and packages for mailing, as well as service of objection bar date (ECF 155). Upon review of the ballots, the work here appears to be of clerical nature, not that which would require the full services of an attorney. The Court is inclined to reduce the fees requested by 50% to \$440.

6/29/2018: \$360 request for preparing filing 2-page proof of service for ballots, order, plan and disclosure statement (ECF 149). In view of the work required, the Court finds the time excessive and is inclined to reduce this request by \$260 to \$100.

7/17/2018: \$944 request for completing and filing the summary of completed ballots (ECF 155). In view of the excessive time spent on a simple matter, the Court is inclined to reduce this request by \$744 to \$200.

The Court is inclined to reduce the fees requested by Applicant by \$4,246 for excessive time spent.

c. Severely flawed or non-fully-performed services.

In a time entry dated **6/11/2018**, Applicant requests \$1,000 for a "supplemental to motion seeking approval of disclosure statement and plan with new dates" which appears to have never been filed with the Court. Instead, Applicant seems to have filed a wholly different motion for an order confirming the plan on July 17, 2018, which has been accounted for in different time entries. The Court is inclined to deny this request for fees.

Next, Applicant requests \$1,600 for four-time entries dated **10/17/2018**, **11/05/2018**, **11/27/2018**, related to the preparation and filing of their fee applications. In light of the severely flawed nature of Applicant's original fee application, the Court is inclined to deny this request.

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The Court is inclined to reduce the fees requested by Applicant by \$2,600 for services that were either severely flawed, or do not appear to have been fully performed.

In total, the Court, in view of the materials submitted before it at this time, is inclined to reduce Applicant's fee request by \$14,897 to \$75,940.

d. Compensation for expenses

Finally, the Court takes issue with Applicant's request for compensation of \$1,128.12 in expenses, as they have only provided a detailed accounting for \$562.22 in expenses. As such, the Court is inclined to grant Applicant's expenses in the reduced amount of \$562.22.

3. Conclusion

The Court is inclined to GRANT Applicant's request for compensation and reimbursement for fees and expenses in the reduced amount of \$75,940 in fees, and \$562.22 in expenses, which the Court understands is the Applicant's final fee request. The Applicant may submit to this tentative ruling, or the matter may be continued for a supplemental declaration by Applicant as to their narrative of the services they performed, and their explanation as to the time spent, or the purpose of, the entries challenged above.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

AMJ Plumbing Specialists Corp.

Represented By
David Lozano

Movant(s):

AMJ Plumbing Specialists Corp.

Represented By
David Lozano
David Lozano
David Lozano

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David Lozano

David Lozano

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6:18-11806 Rick's Patio Inc

Chapter 11

#34.00 Motion for Entry of Final Decree and Closing of Case

Also #35

EH__

Docket 117

Tentative Ruling:

5/21/2019

Opposition: None

Service: Proper

The failure of any party to oppose Debtor's motion will be treated as consent under LBR 9013-1(f)(3).

The Court should enter a final decree closing a case when a Chapter 11 estate has been fully administered. 11 U.S.C. § 350. Full administration of a case requires there are no unresolved matters concerning the case that remain to be decided, such as motions, contested matters, or adversary proceedings. *Greenfield Drive Storage Park v. California Para-Professional Servs. (In re Greenfield Storage Park)*, 207 B.R. 913, 918 (9th Cir. B.A.P. 1997). The question then turns to whether the case has been substantially consummated, as defined under 11 U.S.C. § 1101(2). *In re Wade*, 991 F.2d 402, 406 fn. 2 (7th Cir. 1993). § 1101(2) defines "substantial consummation" as when:

- 1- All, or substantially all of the property to be transferred under the plan has been transferred;
- 2- The debtor, or the successor to the debtor, has assumed management of the debtor's business under the plan and/or all or substantially all of the property dealt with by the plan; and

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CONT... Rick's Patio Inc

Chapter 11

3- The distribution under the plan has commenced.

Here, there are no remaining motions, contested matters, or adversary proceedings remaining in this case. The Court thus finds that the matter has been fully administered. In addition, the Court finds that the case has been substantially consummated. There was no property that needed to be distributed under the plan, Debtor has assumed the management of their business and control of their assets, and distributions have begun under the plan and are being carried out under the schedule.

Tentative Ruling:

The Court is inclined to GRANT Debtor's motion, GRANT request that a Final Decree be entered, and GRANT request that this Chapter 11 case be closed.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Rick's Patio Inc

Represented By
Robert B Rosenstein

Movant(s):

Rick's Patio Inc

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:18-11806 Rick's Patio Inc

Chapter 11

#35.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report
(Post Confirmation)

From: 4/24/18, 7/31/18, 9/25/18, 12/4/18, 4/16/19

Also #34

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rick's Patio Inc

Represented By
Robert B Rosenstein

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6:13-27610 Baleine LP

Chapter 7

#1.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 628

Tentative Ruling:

5/22/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

TRUSTEE FEES: \$ 42,135.15

TRUSTEE EXPENSES: \$ 1,110.08

ATTORNEY FEES: \$ 209,413.38

ATTORNEY COSTS: \$ 12,787.23

ACCOUNTANT FEES: \$76,100.89

ACCOUNTANT COSTS: \$ 152.83

COURT CHARGES: \$350

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

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CONT... Baleine LP

Chapter 7

Debtor(s):

Baleine LP

Represented By
Summer M Shaw

Trustee(s):

Larry D Simons (TR)

Represented By
Carmela Pagay
Todd A Frealy

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6:14-17400 J. T. Site Development, Inc.

Chapter 7

#2.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 102

Tentative Ruling:

5/22/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, Special Counsel for the Trustee and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, noting the significant reductions agreed to by General Counsel and Accountant, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 7,000
Trustee Expenses: \$ 361.90

General Counsel Fees: \$ 37,500
General Counsel Costs: \$ 2,351.65

Special Counsel Fees: \$24,221.82
Special Counsel Costs: \$832.83

Accountant Fees: \$12,500
Accountant Costs: \$184.48

Court Charges: \$3,500

Franchise Tax Board: \$3,900.04

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CONT... J. T. Site Development, Inc.

Chapter 7

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

J. T. Site Development, Inc.

Represented By
Andrew S Bisom

Trustee(s):

Larry D Simons (TR)

Represented By
Frank X Ruggier

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6:19-10490 Shannon Kristine Koivisto

Chapter 7

#3.00 Trustee's Notice of Motion Objecting to Claimed Exemption of Debtor

EH__

Docket 14

Tentative Ruling:

5/22/19

BACKGROUND

On January 21, 2019, Shannon Koivisto ("Debtor") filed a Chapter 7 voluntary petition. On January 24, 2019, Debtor amended Schedules B and C. On Amended Schedule B, Debtor listed a bank account with Wells Fargo holding funds in the amount of \$5,107.46 (the "Funds"). On Amended Schedule C, Debtor claim the funds exempt pursuant to CAL. CIV. P. CODE § 704.070-704.080. On March 8, 2019, Debtor amended Schedules B and C again, although the amendment did not change the amount of the Funds or the legal provision upon which Debtor was claiming an exemption.

On April 26, 2019, Trustee filed an objection to exemption. Debtor did not file an opposition.

DISCUSSION

FED. R. BANKR. P. Rule 4001(b)(1) states, in part:

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CONT... Shannon Kristine Koivisto

Chapter 7

Except as provided in paragraphs (2) and (3), a party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to list or supplemental schedules is filed, whichever is later.

Here, the meeting of creditors had not concluded by the time Trustee filed the instant objection to exemptions.

CAL. CIV. P. CODE § 704.070(b) outlines exemptions for "paid earnings." Section 704.070(a)(2) defines "paid earnings" by reference to § 706.011, while also specifying that the earnings must have been paid during the previous thirty-day period. Section 706.011 defines "earnings" as "compensation payable *by an employer to an employee* for personal services performed by such employee, whether denominated as wages, salary, commission, bonus, or otherwise." (emphasis added). Debtor's filings in this case indicate that she is disability and did not receive income from an employer within sixty-days of the petition date. Therefore, the Court agrees with Trustee that Debtor is not eligible to exempt the Funds under § 704.070.

CAL. CIV. P. CODE § 704.080(b) provides for exemptions for "deposit accounts." Section 704.080(a)(1) defines "deposit account" for purposes of the exemption provision as "a deposit account in which payments of public benefits or social security benefits are directly deposited by the government or its agent." Trustee's declaration asserts that Debtor testified that the Funds were from a private disability policy. Therefore, the unrefuted evidence establishes that Debtor is ineligible to claim an exemption pursuant to § 704.080(b).

Finally, the Court deems failure to file opposition to be consent to the relief requested pursuant to Local Rule 9013-1(h).

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CONT... Shannon Kristine Koivisto

Chapter 7

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection to exemptions in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Shannon Kristine Koivisto

Represented By
Brian J Soo-Hoo

Movant(s):

Larry D Simons (TR)

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:13-23186 Richard C Cox, Jr

Chapter 7

#4.00 CONT Motion for Turnover of Insurance Renewal Commissions

From: 8/22/18, 9/12/18, 11/14/18, 1/16/19, 3/13/19

EH __

Docket 150

*** VACATED *** REASON: ORDER ENTERED 5/3/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard C Cox Jr

Represented By
Summer M Shaw

Movant(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

Trustee(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

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6:13-10775 Nereo Gomez

Chapter 7

#5.00 Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) --Motion for Order: (1) Approving Compromise; and (2) Authorizing Trustee to Sell Real Property, Free and Clear of Liens, Subject to Overbid

EH__

Docket 27

Tentative Ruling:

5/22/19

BACKGROUND

On January 15, 2013, Nereo Gomez ("Debtor") filed a Chapter 7 voluntary petition. On April 29, 2013, Debtor received a discharge; the case was closed two days later.

On January 3, 2018, upon motion by UST, the Court reopened the case. On January 12, 2018, Trustee filed a notice of assets.

On April 30, 2019, Trustee filed the instant motion for approval of compromise and sale of real property (the "Motion"). The Court has not received any opposition to the Motion.

The Motion relates to certain unencumbered vacant land in Fontana (the "Property"). The Property is subject to state court litigation filed by Lawrence Schoelch (the "Buyer"), who owns adjoining land, and filed a state court complaint which included quiet title, trespass, slander/disparagement of title, and setoff or offset. Pursuant to the

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CONT... Nereo Gomez

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motion, Trustee seeks to sell the Property, free and clear, to Buyer, and Buyer will then dismiss the pending state court litigation with prejudice.

DISCUSSION

The Court notes three different issues with the Motion.

First, the Motion does not contain any detailed evidence which would enable the Court to assess the reasonableness of the underlying compromise and sale of the Property. The only evidence relating to the fair market value of the Property is Trustee's unsubstantiated assertion that "the Sales Price represents the fair market value for the Real Property considering the unique characteristics of the Real Property and the State Court Action that affects the marketability of the Real Property." [Dkt No. 27, pg 22, lines 18-21]. Regarding the compromise of the state court litigation, the Court has no meaningful evidence which would allow the Court to analyze the reasonableness of the compromise.

Second, while the Court is aware that the proposed sale is the result of a compromise with Buyer, the Court notes that there appears to have been minimal marketing or noticing of the sale. If the Motion had been primarily styled as a compromise motion, which included a sale, rather than a sale motion, which included a compromise, then it may have been appropriate to simply inquire whether there was a reasonable possibility of overbids. As a sale motion, however, the Motion falls materially short of the typical marketing and notice requirements.

Third, if the Court were to construe the motion as a compromise motion, the Motion fails to provide adequate notice. Specifically, the Motion utilizes the standard sale motion notice procedures, which include serving notice on all creditors, but only serving the actual motion on certain parties. An actual compromise motion, on the

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CONT... Nereo Gomez

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other hand, is required to be served on all parties.

Pursuant to the previous two paragraphs, the Motions, a hybrid compromise-sale motion, does not satisfy the marketing requirements necessary for a sale motion nor does it satisfy the notice requirements necessary for a compromise motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Nereo Gomez

Represented By
John F Brady

Movant(s):

Howard B Grobstein (TR)

Represented By
Nancy H Zamora

Trustee(s):

Howard B Grobstein (TR)

Represented By
Nancy H Zamora

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6:19-10626 Francis Garcia

Chapter 7

#6.00 Motion of United States Trustee for an Order Disgorging Fees, Assessing Damages, and Imposing Fines Against BBP Albert Knowles DBA The Bankruptcy Clinic

EH__

Docket 13

Tentative Ruling:

5/22/19

BACKGROUND

On January 25, 2019, Francis Garcia ("Debtor") filed a voluntary Chapter 7 petition.

On April 15, 2019, UST filed a motion for the entry of an order disgorging fees and imposing fines against bankruptcy petition preparer Albert Knowles ("BPP") dba The Bankruptcy Clinic, requesting the disgorgement of \$200, fines of \$2,000 to be paid to Debtor, and fines of \$500 to be paid to UST. According to UST's motion, BPP provided unauthorized legal advice to Debtor. On May 17, 2019, BPP filed a late opposition. On May 21, 2019, UST filed a reply.

DISCUSSION

I. BANKRUPTCY PETITION PREPARER

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CONT... Francis Garcia

Chapter 7

11 U.S.C. § 110(a)(1) defines "bankruptcy petition preparer" as "a person, other than an attorney for the debtor or an employee of such attorney under the direct supervision of such attorney, who prepares for compensation a document for filing." "Document for filing" is defined as "a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title." *Id.*

Here, UST has provided the declaration of Debtor stating that Knowles prepared a document for filing, and was compensated for such preparation. Furthermore, there is no evidence that BPP is an attorney, or works under the supervision of an attorney. Therefore, BPP is a bankruptcy petition preparer subject to the requirements of § 110.

II. LEGAL ADVICE

11 U.S.C. § 110(e)(2)(A) states: "[a] bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B)." 11 U.S.C. § 110(e)(2)(B) identifies several common categories of advice that fit within the definition of legal advice in the context of § 110(e)(2).

Here, UST states that Knowles explained the differences between bankruptcy chapters and advised the Debtor on retaining her home and car." [Dkt. No. 13, pg. 6, lines 2-3]. This advice fits is prohibited legal advice pursuant to 11 U.S.C. § 110(e)(2)(B)(i) (II) and § 110(e)(2)(B)(iii).

III. DAMAGES

First, Section 110(i)(1) states:

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CONT...

Francis Garcia

Chapter 7

(i)(1) If a bankruptcy petition preparer violates this section or commits any act that that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor-

(A) the debtor's actual damages;

(B) the greater of—

(i) \$2,000; or

(ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

(C) reasonable attorneys' fees and costs in moving for damages under this subsection.

The use of the word 'shall' in § 110(i)(1) indicates that the bankruptcy court has no discretion in deciding whether to impose statutory damages of \$2,000 once it found a violation of § 110. First, however, the Court must determine that Ortega committed a "fraudulent, unfair, or deceptive" act. *See, e.g., In re Doser*, 412 F.3d 1056, 1064 (9th Cir. 1005); *see also In re Kangaroo*, 250 B.R. 115 (Bankr. C.D. Cal 2000). Engaging in the unauthorized practice of law has routinely been held to be a "fraudulent, unfair, or deceptive" act under the statute. *See, e.g., In re Monson*, 522 B.R. 340, 355 (Bankr. D. Utah 2014) ("Offering legal advice to debtors can constitute a fraudulent, unfair or deceptive act within the context of § 110(i)(1).") (collecting cases); *In re Bagley*, 433 B.R. 325, 334 (Bankr. D. Mont. 2010). Furthermore, given that Knowles appeared to provide advice relating to "ride-through," an unsettled question of law, the legal advice given appears to be fairly characterized as "unfair" or "deceptive." Therefore, the Court finds that statutory damages of \$2,000 are appropriate.

Second, 11 U.S.C. § 110(h)(3)(B) provides for forfeiture of fees received if a bankruptcy petition preparer fails to comply with § 110(b)-(h). The Court deems forfeiture of the \$200 paid by Debtor to be appropriate in this case.

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CONT... Francis Garcia

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Third, 11 U.S.C. § 110(l)(1) provides for a fine of up to \$500 for each violation of § 110(b)-(h). For the reasons stated in the motion, in the reply, and in this tentative ruling, the Court finds an additional \$500 fine to be appropriate.

TENTATIVE RULING

The Court is inclined to GRANT the motion, ordering disgorgement of \$200 compensation to Debtor, statutory fines in the amount of \$2,000, payable to Debtor, and statutory fines in the amount of \$500, payable to UST.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Francis Garcia

Pro Se

Movant(s):

United States Trustee (RS)

Represented By

Abram Feuerstein esq

Trustee(s):

Steven M Speier (TR)

Pro Se

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6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

#7.00 Motion to Reopen Discovery

EH__

Docket 284

Tentative Ruling:

5/22/19

On April 18, 2013, Narinder Sangha ("Defendant") filed a Chapter 7 voluntary petition. On April 25, 2013, Charles Schrader ("Plaintiff") filed an adversary complaint against Defendant for non-dischargeability pursuant to 11 U.S.C. § 523(a) (6).

On August 12, 2013, the Court entered its first scheduling order, directing the parties to complete mediation by October 16, 2013; that deadline was ultimately continued to October 29, 2013. On December 4, 2013, the Court entered a second scheduling order, directing the parties to complete mediation by January 31, 2014. There have been no further scheduling orders in this case.

Notwithstanding the fact that Defendant has failed to: (1) serve his motion; (2) set the motion for hearing on adequate notice; or (3) include any admissible evidence in support of his motion, the Court notes that it does not appear that any discovery deadline has been imposed by the Court in this case. Therefore, there is no need to "reopen" discovery.

TENTATIVE RULING

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CONT... Narinder Sangha

Chapter 7

Parties to apprise the Court whether a discovery deadline has been set in this case. If no discovery deadline has been set, the Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Ryan F Thomas

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

#7.10 CONT Status Conference RE: [1] Adversary case 6:13-ap-01171. Complaint by Charles Edward Schrader against Narinder Sangha . willful and malicious injury))

From: 4/17/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Ryan F Thomas

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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2:00 PM

6:18-17663 Stephen Richard Morales

Chapter 7

Adv#: 6:18-01242 Forniss et al v. Morales et al

#8.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01242. Complaint by Steven John Forniss against Stephan Richard Morales, Diane Forniss Morales, Todd Turoci. 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)) (Firman, Fritz)

From: 3/6/19, 3/13/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Richard Morales

Represented By
Todd L Turoci

Defendant(s):

Stephan Richard Morales

Represented By
Todd L Turoci

Diane Forniss Morales

Represented By
Todd L Turoci

Joint Debtor(s):

Diane Forniss Morales

Represented By
Todd L Turoci

Plaintiff(s):

Stephen Forniss

Represented By
Fritz J Firman

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CONT... Stephen Richard Morales

Chapter 7

Alfonso Forniss

Represented By
Fritz J Firman

Trustee(s):

Karl T Anderson (TR)

Pro Se

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2:00 PM

6:18-16905 Tina M Coca

Chapter 7

Adv#: 6:18-01216 Addison v. Coca

#9.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01216. Complaint by Chelsea Addison against Tina M Coca. willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))),02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)))

From: 1/9/19, 3/13/19

EH ____

Docket 1

***** VACATED *** REASON: JUDGMENT ENTERED 5/10/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tina M Coca

Represented By
Emilia N McAfee

Defendant(s):

Tina M Coca

Pro Se

Plaintiff(s):

Chelsea Addison

Represented By
David C Parisi
Ethan M Preston

Trustee(s):

Robert Whitmore (TR)

Pro Se

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2:00 PM

6:17-13853 Malik Muhammad Asif

Chapter 7

Adv#: 6:17-01197 Itria Ventures, LLC v. Asif et al

#10.00 Pre-Trial Conference RE: [1] Adversary case 6:17-ap-01197. Complaint by Itria Ventures, LLC against Malik Muhammad Asif, Zobia Asif. false pretenses, false representation, actual fraud)) (Chekian, Michael)

From: 11/15/17, 12/6/17, 1/10/18, 6/6/18, 10/3/18, 11/7/18, 2/27/19, 4/24/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malik Muhammad Asif

Represented By
Todd L Turoci

Defendant(s):

Malik Muhammad Asif

Represented By
David T Egli

Zobia Asif

Represented By
David T Egli

Joint Debtor(s):

Zobia Asif

Represented By
Todd L Turoci

Plaintiff(s):

Itria Ventures, LLC

Represented By
Michael F Chekian

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CONT... Malik Muhammad Asif

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Represented By
Thomas H Casey

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2:00 PM

6:09-37495 Sultan Fakhoury

Chapter 7

Adv#: 6:19-01067 Fakhoury et al v. HAZMAT TSDf INC.

#11.00 Motion for Enforcement of Bankruptcy Discharge Injunction and to Quiet Title

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sultan Fakhoury

Represented By
Gary Swanson

Defendant(s):

HAZMAT TSDf INC.

Pro Se

Joint Debtor(s):

Catherine M Fakhoury

Represented By
Gary Swanson

Plaintiff(s):

Sultan Fakhoury

Represented By
Albert W Marchetti

Catherine M Fakhoury

Represented By
Albert W Marchetti

Trustee(s):

Patricia J Zimmermann (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:15-20006 Carl J Charlot and Jacinta S Charlot

Chapter 13

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

EH__

Docket 98

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/21/19**

Matter Notes:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carl J Charlot

Represented By
Michael A Younge

Joint Debtor(s):

Jacinta S Charlot

Represented By
Michael A Younge

Movant(s):

Carl J Charlot

Represented By
Michael A Younge

Jacinta S Charlot

Represented By
Michael A Younge

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:16-10257 Cecilia Orozco and Sergio Orozco

Chapter 13

#2.00 Motion RE: Objection to Claim Number 2 by Claimant PALISADES ACQUISITION XVIII with request for valuation of security, payment of fully secured claims, and modification of undersecured claims

Also #3

EH__

Docket 59

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/15/19

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cecilia Orozco

Represented By

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CONT... Cecilia Orozco and Sergio Orozco

Chapter 13

Majid Safaie
Manfred Schroer

Joint Debtor(s):

Sergio Orozco

Represented By
Majid Safaie
Manfred Schroer

Movant(s):

Cecilia Orozco

Represented By
Majid Safaie
Manfred Schroer

Sergio Orozco

Represented By
Majid Safaie
Manfred Schroer

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:16-10257 Cecilia Orozco and Sergio Orozco

Chapter 13

#3.00 Motion RE: Objection to Claim Number 3 by Claimant PALISADES
COLLECTIONS, LLC with request for valuation of security, payment of fully
secured claims, and modification of undersecured claims

Also #2

EH__

Docket 58

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/15/19

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cecilia Orozco

Represented By

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CONT... Cecilia Orozco and Sergio Orozco

Chapter 13

Majid Safaie
Manfred Schroer

Joint Debtor(s):

Sergio Orozco

Represented By
Majid Safaie
Manfred Schroer

Movant(s):

Cecilia Orozco

Represented By
Majid Safaie
Manfred Schroer

Sergio Orozco

Represented By
Majid Safaie
Manfred Schroer

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:16-12031 Maria Lourdes Magallon

Chapter 13

#4.00 Motion For Disgorgement Of Fees

EH__

Docket 64

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria Lourdes Magallon

Represented By
Leonard Pena

Movant(s):

Rod Danielson (TR)

Pro Se

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CONT... Maria Lourdes Magallon

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:16-14440 Michael Douglas Guerino and Xochitl Rodriguez Guerino

Chapter 13

#5.00 Motion for Order to Disallow Late Filed Claim of Internal Revenue Service

Also #6

EH__

Docket 96

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/7/19

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Douglas Guerino

Represented By
James D Cuzzolina

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CONT... Michael Douglas Guerino and Xochitl Rodriguez Guerino

Chapter 13

Joint Debtor(s):

Xochitl Rodriguez Guerino

Represented By
James D Cuzzolina

Movant(s):

Michael Douglas Guerino

Represented By
James D Cuzzolina
James D Cuzzolina
James D Cuzzolina

Xochitl Rodriguez Guerino

Represented By
James D Cuzzolina
James D Cuzzolina
James D Cuzzolina

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:16-14440 Michael Douglas Guerino and Xochitl Rodriguez Guerino

Chapter 13

#6.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

Also #5

EH__

Docket 88

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Douglas Guerino

Represented By
James D Cuzzolina

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CONT... Michael Douglas Guerino and Xochitl Rodriguez Guerino

Chapter 13

Joint Debtor(s):

Xochitl Rodriguez Guerino

Represented By
James D Cuzzolina

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:17-16350 Elvira Stark

Chapter 13

#7.00 Motion For Disgorgement Of Fees

EH__

Docket 36

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

DISCUSSION

Counsel for Debtor states that no motion to sell the property was filed because the title company had opined that it was not necessary as the property in question was entering Debtor's possession after they had filed their petition for bankruptcy. 11 U.S.C. § 1115(a)(1) states that the property of the estate includes any property obtained by the Debtor following their petition, but prior to the close of the case, that would have formed part of the estate under § 541.

Here, Debtor had a legal interest in the entirety of Mr. Rimes estate, including

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CONT... Elvira Stark

Chapter 13

the Property, under § 541(a)(1), meaning that the Property became part of her estate under § 1115(a)(1). As such, Counsel is incorrect in asserting that he was performing legal services in an unrelated matter. He was instead selling property of the estate without a motion, and taking legal fees without Court approval, as required by 11 U.S.C. § 330.

TENTATIVE RULING

MAY 23, 2019

SERVICE: PROPER

OPPOSITION: YES

THE COURT IS INCLINED TO GRANT TRUSTEE'S MOTION FOR DISGORGEMENT OF ATTORNEY'S FEES IN THE AMOUNT OF \$2,000. PERFORMANCE TO OCCUR WITHIN 7 DAYS.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Elvira Stark

Represented By
Robert L Firth

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:17-19739 Wasantha K. Leonidas

Chapter 13

#8.00 Motion to Disallow Claims of Real Time Resolutions Claim No. 6

Also #9

EH__

Docket 46

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

I. BACKGROUND

**United States Bankruptcy Court
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CONT...

Wasantha K. Leonidas

Chapter 13

On November 22, 2017 (the "Petition Date"), Wasantha Leonidas ("Debtor") filed a Chapter 13 voluntary petition. Previously, on March 7, 2012, Debtor obtained a discharge in a Chapter 7 proceeding. On January 5, 2018, Debtor filed a motion to avoid lien with "Real Time Resolutions Inc." This lien predated the Petition Date. On May 1, 2018, the Court entered an order granting the motion. The hanging paragraph included within section 4 of the Attachment to Motion/Order provides: "Unless otherwise ordered, any allowed claim in excess of this Secured Claim Amount is to be treated as a nonpriority unsecured claim and is to be paid pro rata with all other nonpriority unsecured claims in Class 5A of the Plan." [Dkt. 34]. Additionally, sections 5 and 6 of the Attachment to Motion/Order state that: (1) the effective date of lien avoidance is upon (presumably, the earlier of) completion of the Chapter 13 plan or receipt of a discharge; and (2) the underlying lien is retained until the effective date of avoidance. That order was not appealed and became final.

On February 8, 2018, Debtor's Chapter 13 case was confirmed. On March 29, 2018, Real Time Resolutions, Inc. ("Creditor") filed a secured claim in the amount of \$69,815.31 ("Claim 6"). On April 5, 2018, Debtor filed an objection to Claim 6. The basis for Debtor's objection is that her personal liability on Claim 6 was discharged in a previous bankruptcy case, and the Court's order avoiding the lien of Creditor means that the claim should no longer be treated as secured.

II. APPLICABLE LAW:

A. Claim Objection

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CONT... Wasantha K. Leonidas

Chapter 13

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954

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CONT... Wasantha K. Leonidas

Chapter 13

F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

B. Summary of Analysis

The avoidance of a consensual lien in a Chapter 13 case is effectuated by a two-step process. First, the Court engages in a § 506(a) valuation, bifurcating the claim into secured and unsecured portions. Then the Court applies § 1322(b)(2). If the § 506(a) valuation results in either a (1) "secured claim[s], other than a claim secured only by a security interest in real property that is the debtor's principal residence"; or (2) an unsecured claim, then the plan may modify the rights of the creditor under § 1322(b)(2), avoiding the lien. This is because the Supreme Court has concluded that after a § 506(a) valuation, a wholly underwater junior lien is to be treated as an unsecured claim, and unsecured claims are subject to modification under § 1322(b)(2).

If the debtor's personal liability on the underlying debt has been discharged in a previous bankruptcy case, however, the issue is more complex. Because there is no *in personam* liability on the underlying debt, it could be argued that there is no unsecured claim after the § 506(a) valuation. But if the lienholder is not left with any unsecured claim, as shown in detail below, the debtor would be ineligible to use § 1322(b)(2) to avoid the lien or otherwise modify the rights of the creditor.

Therefore, lien avoidance can only be statutorily permissible if § 506(a) is interpreted as "creating" an unsecured claim for the purposes of the Chapter 13 bankruptcy. As outlined below, this result is logically necessary, and case law, this district's

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mandatory forms, and policy considerations all weigh in favor of the result.

III. ANALYSIS:

A. History of Lien Avoidance

The sole basis for Debtor's objection to Claim 6 is that Claim 6 was the subject of a prior discharge and lien avoidance order, and that, therefore, Creditor does not have any unsecured claim. To understand the legal argument made, a brief history of lien avoidance is necessary.¹

Prior to 1992, lien avoidance was available to debtors in both Chapter 7 and 13 proceedings, and for junior liens that were both wholly underwater and partially underwater. *See e.g., Gaglia v. First Fed. Savs. & Loan Ass'n*, 889 F.2d 1304 (3rd Cir. 1989) (Chapter 7 debtors could strip down partially underwater junior lien). In 1992, however, the Supreme Court decided *Dewsnup v. Timm*, 502 U.S. 410 (1992), which held that Chapter 7 debtors could not strip down a partially unsecured lien to the value of the collateral. In reaching that conclusion, the Supreme Court noted the definition of secured claim in 11 U.S.C. § 506(a)(1), which states as follows:

An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the

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amount so subject to setoff is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.

The Supreme Court also noted the language of 11 U.S.C. § 506(d), which states, in relevant part: "To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void." Prior to *Dewsnup*, courts have interpreted § 506(a)(1) and § 506(d), when read in conjunction, to establish a method by which debtors could void a lien to the extent such a lien was wholly or partially unsecured. The Supreme Court, however, rejected that reading, deferring to the "pre-Code rule that liens pass through bankruptcy unaffected." *Id.* at 778. In rejecting such a reading, the Supreme Court foreclosed the possibility of using § 506 as an independent mechanism to avoid wholly or partially underwater liens. Nevertheless, the Eleventh Circuit continued to allow Chapter 7 debtors to strip off wholly underwater liens, noting that the Supreme Court in *Dewsnup* had decided on the facts of a partially underwater lien. *See, e.g., In re McNeal*, 735 F.3d 1263 (11th Cir. 2012).

In 2015, however, the Supreme Court returned to the issue, and rejected the Eleventh Circuit's approach, holding that Chapter 7 debtors could not avoid wholly underwater liens through the operation of § 506. While it is not exactly clear how § 506 could be applied differently depending on whether the lien is wholly or partially unsecured, the Supreme Court concisely reasserted that "*Dewsnup* defined the term 'secured claim' in § 506(d) to mean a claim supported by a security interest in property, regardless of whether the value of that property would be sufficient to cover the claim. . . . *Dewsnup*'s construction of 'secured claim' resolves the question presented here."

Nevertheless, Chapter 13 debtors have a different mechanism by which they can avoid liens which are partially or wholly underwater: 11 U.S.C. § 1322(b)(2), which states:

(b) Subject to subsections (a) and (c) of this section, the plan may –

(2) modify the rights of holders of secured claims, other than a claim secured

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only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims

Prior to 1993, bankruptcy courts had allowed Chapter 13 debtors to use the above provision to avoid both wholly and partially underwater liens. In 1993, however, the Supreme Court decided *Nobelman v. Am. Savs. Bank*, 508 U.S. 324 (1993), which limited Chapter 13 debtors' ability to use § 1322(b)(2) to avoid liens to only those circumstances where the junior lien was wholly underwater. *Id.* at 332 ("In other words, to give effect to § 506(a)'s valuation and bifurcation of secured claims through a Chapter 13 plan in the manner petitions proposed would require a modification of the rights of the holder of the security interest. Section 1322(b)(2) prohibits such a modification where, as here, the lender's claim is secured only by a lien on the debtor's principal residence."). After *Nobelman*, Chapter 13 debtors were still permitted to use § 1322(b)(2) to avoid liens which were "secured" by their principal residence, if such lien was wholly underwater (and thus, pursuant to § 506(a)(1), not "secured"). See, e.g., *In re Zimmer*, 313 F.3d 1220, 1227 (9th Cir. 2002) ("In order to give effect to the definitions of secured and unsecured claims under § 506(a), we must conclude that the rights of a creditor holding only an unsecured claim may be modified under § 1322(b)(2)."); *In re Tanner*, 217 F.3d 1357, 1359-60 (11th Cir. 2000).

B. Lien Avoidance in Chapter 20 Cases

An additional wrinkle, however, is present when a debtor files a "Chapter 20" case.² A Chapter 20 case involves a debtor who received a discharge in a Chapter 7 case and subsequently (technically within four years) files a Chapter 13 case. In that circumstance:

The Chapter 7 discharge erases all dischargeable, unsecured debts. The discharge,

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however, only prevents creditors from collecting against the debtors personally. Any liens on secured property ride through the bankruptcy. The liens become non-recourse loans. When the debtor then files under Chapter 13 none of the unsecured debt is part of the Chapter 13 case because it has been discharged in the Chapter 7 case, but the remaining liens are claims in the Chapter 13.

In re Winitzky, 2009 WL 9139891 at *1 (Bankr. C.D. Cal. 2009) (citations omitted). There are at least two significant questions that arise when a Chapter 13 debtor attempts to avoid a wholly underwater junior lien after obtaining a Chapter 7 discharge: (1) whether avoidance of the junior lien is permissible and (2) how the holder of the junior lien should be treated during the pendency of the Chapter 13 plan. Furthermore, there is an additional important question here: how much weight should the Court give the language of the lien avoidance motion and the subsequent order granting the motion.

The two preliminary questions identified above are legally complex – although a brief description is adequate to reveal the issues. Under the *Nobelman* lien avoidance procedure, a debtor first seeks a valuation under § 506(a)(1). Pursuant to § 506(a)(1), the claim is secured "to the extent of the value of such creditor's interest in the estate's interest in such property," and is an "unsecured claim to the extent that the value of such creditor's interest or the amount so subject setoff is less than the amount of such allowed claim."

Here, because Creditor's entire claim is underwater (i.e., the value of the collateral is less than the amount of the senior lien), the application of § 506(a)(1) leads to a conclusion that the amount of Creditor's secured claim is zero. Pursuant to § 506(a)(1), the entirety of the claim is then deemed to be unsecured. The issue, however, is whether (a) § 506(a)(1) depends upon whether *in personam* liability exists on the claim in the first place, or (b) application of § 506(a) results in an unsecured claim regardless of whether *in personam* liability previously existed. If the language of § 506(a)(1) *does not* implicitly depend upon whether *in personam* liability existed, then the plain language of the statute provides that any part of the claim determined not to be secured is automatically unsecured. In effect, a Chapter 20 debtor would have a choice regarding wholly underwater junior liens: treat the claim as either (a) wholly secured (and the lien will pass through bankruptcy unaffected) or (b) wholly

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unsecured (and the claim must be treated under a plan as a general unsecured debt).

If § 506(a)(1) *does* implicitly contain an assumption that, for an unsecured claim to remain, *in personam* liability must have existed on the claim in the first place, a different problem arises. As noted above, section 1322(b)(2) allows Chapter 13 debtors to "modify the rights of holders of secured claims, other than a claim secured only by a secured interest in real property that is the debtor's principal residence, or of holders of unsecured claims." And *Nobleman* requires a two-step, sequential process for lien avoidance of wholly underwater junior liens by Chapter 13 debtors: (1) the application of § 506(a)(1), then (2) the operation of § 1322(b)(2). In order for § 1322(b)(2) to be applicable, however, and thus lien avoidance possible, the § 506(a)(1) valuation must reach one of two results: (1) a secured claim, other than a claim secured by real property that is the debtor's principal residence; or (2) an unsecured claim. Clearly, if Claim 6 is secured, it is only secured by Debtor's principal residence. Therefore, the only way § 1322(b)(2) can be applied is if the operation of § 506(a)(1) results in an unsecured claim; the result is logically unambiguous, and simply unavoidable. Finally, because the Ninth Circuit in *In re Blendheim*, 803 F.3d 477 (9th Cir. 2015) has held that lien stripping is available to Chapter 20 debtors, the Court is forced to conclude that § 1322(b)(2) can be applied, and, therefore, that an unsecured claim is created, solely for the purposes of the instant bankruptcy case, by the operation of § 506(a)(1). This process, and the conclusion that Creditor holds an unsecured claim, have been detailed comprehensively by the BAP in *In re Boukatch*, 533 B.R. 292 (B.A.P. 9th Cir. 2015), which outlined the appropriate legal approach and repeatedly referred to the creditor's claim as "unsecured." 533 B.R. 292, 300 ("Therefore, MidFirst holds only an "unsecured claim" for purposes of § 1322(b)(2); the claim is not subject to its antimodification protections.").

C. The Central District of California's Motion and Order

The Court's form motion and order, as well as case law, implicitly and explicitly recognize this dilemma for debtors. The lien avoidance motion filed by Debtor included, in the prayer for relief, the following request made by Debtor:

"Respondent's claim on the junior position lien shall be allowed as a nonpriority

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general unsecured claim in the amount per the filed Proof of Claim." [Dkt. No. 22 at 3(d)(3)]. And, as noted in the introduction section, the Court's order granting the motion contains the following: "Unless otherwise ordered, any allowed claim in excess of this Secured Claim Amount is to be treated as a nonpriority unsecured claim and is to be paid pro rata with all other nonpriority unsecured claims in Class 5A of the Plan." [Dkt. No. 34, pg. 5].³ Both the motion and order, *submitted by the Debtor* and now final, request and dictate, respectively that the Creditor's claim be treated as an unsecured claim.

D. Case Law on the Treatment of Avoided Lien in a Chapter 20 Case

The case law on this narrow issue (if lien stripping is allowed in a Chapter 20, how should the claim be treated during the plan) is not extensive. Multiple bankruptcy courts in California, however, have recognized the consequences noted above. The first opinion nationally to address the issue appears to have come from this district. *See In re Akram*, 239 B.R. 371, 377 (Bankr. C.D. Cal. 2001) ("However, neither *Lam* nor the cases from other Circuits addressed or allowed the result moved for here: that a *Lam*-stripped claim should be valued, for chapter 13 plan purposes, not only as a secured claim of zero, but also as a general unsecured claim of zero, where the debtor previously received a chapter 7 discharge. In fact, neither movant, nor this Court, found any reported case authorizing the result here moved for, or even ruling on this 'Chapter 20' twist to *Lam* motions."). The holding of that case was: "the '*Lam*-stripping' of these secured claims in the chapter 13 case resulted in valuing the secured claims at zero secured, for chapter 13 plan purposes, and turned the full

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amount owed to each creditor (pursuant to that creditor's Note) into a general unsecured claim, for chapter 13 plan purposes." *Id.* at 378.

The reasoning of *Akram* does not appear to be universally accepted, but it has been cited approvingly by the BAP and is the majority position on the issue. *See In re Eaton*, 2006 WL 6810924 at *6 (B.A.P. 9th Cir. 2006); *In re Gounder*, 266 B.R. 879, 880 (Bankr. E.D. Cal. 2001) ("Given that the lien survived the chapter 7 discharge, if a chapter 13 petition is later filed and the lien is stripped pursuant to *Lam*, the creditor must be allowed an unsecured claim despite the earlier chapter 7 discharge."); *see also In re Renz*, 476 B.R. 382, 392 (Bankr. E.D.N.Y. 2012). Even *Okosis*, the decision commonly referred to as detailing the "fourth option" which provided a rationale to validate lien stripping in Chapter 20 cases (see footnote 4), concluded that the claim must be treated as an unsecured claim in the plan. 451 B.R. 90, 96 (Bankr. D. Nev. 2011) ("Even though the chapter 13 debtor faces no personal liability on the debt, the debtor may use Section 506(a) to determine that the claim is not supported by the value of any collateral, avoid the lien through the chapter 13 plan, and thereby treat the debt as unsecured debt."). And, importantly, the BAP, in *In re Boukatch*, 533 B.R. 292 (B.A.P. 9th Cir. 2015), after extensively detailing the issues, repeatedly referred to the creditor's claim as "unsecured" for § 1322 purposes.

Ultimately, the relevant case law and this district's form motion and order recognize the logical necessity that only one of two things can be true: (1) lien stripping is unavailable in Chapter 20 cases; or (2) the wholly underwater junior lien becomes an unsecured claim upon lien avoidance. Legally, *In re Blendheim*, 803 F.3d 477 (9th Cir.

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2015), made the former option legally impermissible in this Circuit; therefore, the latter option is unavoidable. Quite simply, the Chapter 20 debtor cannot have its cake and eat it too. Creditor's claim, originally secured by property of the estate, is converted to an unsecured claim against the estate after lien avoidance.

E. Policy Considerations

Not only do logical reasoning, case law, and this district's practice demand the result, but the equities concur. A Chapter 13 debtor can propose plans which pay creditors three different categories of dividends: (1) 0%; (2) more than 0%, but less than 100%; or (3) 100%. In either of the first two cases, treatment of the claim as an unsecured claim would not affect the amount the debtor pays into the plan. Only in the situation where the debtor is not paying the entirety of its disposable income into the plan does the issue affect the debtor. In other words, only in those cases where the Chapter 13 debtor has the ability to pay some or the entire resulting unsecured claim would the result impact the Chapter 13 plan. Furthermore, there is no mechanism under the bankruptcy code that would allow a debtor to avoid a lien and discharge the *in personam* liability without the obligation to make a good faith effort to make payment on the claim. For all the reasons outlined above, Debtor's efforts at finding a loophole to avoid the requirement are logically incompatible with the Code.

F. Miscellaneous Counter-Arguments

The Court is aware of several counter-arguments to the rationale adopted above that

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appear to rely either on a material misunderstanding of this Court's reasoning or of the applicable statutes or caselaw. Rather than attempt to incorporate these invalid arguments into the rationale outlined above, the Court will concisely summarize them here.

1) *In re Free*, 542 B.R. 492 (B.A.P. 9th Cir. 2015) is not relevant to the instant issue.

Debtor argues that:

Since the debt is not to be counted toward the debt limit for eligibility, likewise it should not be counted in the total debt administered and paid through Debtor's Chapter 13 case. Debtors that are administered by the Trustee in the Chapter 13 Plan count for the debt limit eligibility under § 109(e), the debt of Claimant should not fall within this category and should not be paid by the Trustee in Debtor's case.

[Dkt. No. 46, pgs. 2-3]. This argument ignores the fact that the cited statute, 11 U.S.C. § 109(e), explicitly provides for debt limit eligibility to be determined "on the date of the filing of the petition." Here, Debtor obviously had not filed a motion to avoid lien nor had the Court entered an order avoiding Creditor's lien *on the date of the filing of the petition*. Therefore, a subsequent order converting Creditor's claim to an unsecured claim for purposes of the plan would have no effect on a debt limit calculation which is to occur *as of the petition date*. The fact that the BAP concluded as such is completely irrelevant to the issues related to the claim objection; it is simply an acknowledgment of the unambiguous language of the statute.

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2) This Court's opinion does not imply that the issue of whether a Chapter 20 debtor can avoid a wholly underwater lien is undecided in this circuit. The Court simply notes that, after a § 506 valuation, a creditor logically must have one of three types of claims: (1) a claim secured by property other than the debtor's principal residence; (2) a claim secured by property that is the debtor's principal residence; (3) an unsecured claim; or (4) no claim. The first category is clearly inapplicable here. As to the second fourth category, if Creditor were to hold a claim secured by property that is the debtor's principal residence, or hold no claim, after a § 506 valuation, then Debtor would not be able to use § 1322(b)(2), and, therefore, Debtor could not avoid Creditor's lien under the lien avoidance procedures established by the Supreme Court and Ninth Circuit. But Debtor can avoid Creditor's lien under binding precedence established by the Ninth Circuit. Therefore, the final option, that Creditor holds an unsecured claim after the § 506 valuation, is the only option which does not run afoul of binding legal precedence. A simple *modus tollens* which may elude those who only skim the decision.

3) While this district's local rules and forms do not carry the weight of binding law, a final order of this Court is binding in the case in which it is entered. When a party files a motion, requesting certain relief, then lodges an order, requesting that relief, and the Court enters that order, the terms of that order become binding in the case in which the order was entered. If that party subsequently wishes to be relieved from certain terms in that order, the appropriate mechanism is to file a motion requesting amendment or vacation of the offending order.

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The Court does note that recent amendments to the lien avoidance forms do appear to provide some relief from this issue because the attachment to motion/order does include the phrase "[u]nless otherwise ordered." Still, the underlying motion in this case retains explicit language stating that Debtor's claim will be treated as an unsecured claim. If Debtor wishes to request otherwise, then Debtor should make that clear when filing the lien avoidance motion, instead of seeking two contradictory orders from this Court.

4) This decision carries no weight outside of the instant bankruptcy proceeding. This Court believes that the decision above is abundantly clear that Creditor's claim is to be treated as an unsecured claim *under bankruptcy law*, specifically § 1322. As can be ascertained from the discussion above, the Court is not creating any obligations outside of bankruptcy law, or any obligations which remain beyond the dismissal or discharge of Debtor's bankruptcy case.

Nor can this ruling have any binding effect *in any other bankruptcy case other than the instant case*. This decision implicitly contemplates an election by Debtor – either to treat Creditor's claim as secured (and the lien would pass through bankruptcy unaffected) or unsecured (and the lien would be avoided upon completion of the Chapter 13 plan) for purposes of the Chapter 13 plan. The Court is aware of no legal argument

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which would bind the Debtor to that selection in future bankruptcy cases. Therefore, it appears clear that the effect of this decision is limited to the instant bankruptcy case.

5) Finally, while this conclusion hardly merits restatement, a wholly underwater, consensual lien secured by a debtor's principal residence is avoided through a step two process: (1) bifurcation under § 506(a); and (2) avoidance under § 1322(b)(2). The Ninth Circuit in *In re Zimmer*, 313 F.3d 1220, 1223 (9th Cir. 2002) states that: "In general, Chapter 13 allows the modification of the rights of creditors, *including the avoidance of liens against the debtor's property*, but protects homestead liens from modification [quotation of statute]. 11 U.S.C. § 1322(b)(2)." *See also id.* at 1227. ("In order to give effect to the definitions of secured and unsecured claims under § 506(a), we must conclude that the rights of a creditor holding only an unsecured claim may be modified under § 1322(b)(2)."). While it is true that a Chapter 13 debtor may be able to convert a wholly underwater lien into an unsecured claim solely through operation of § 506(a), it is simple black letter law that the actual avoidance of the lien, i.e. the modification of rights, is only provided for by § 1322(b)(2).

IV. CONCLUSION

Based on the foregoing, the Court is inclined to OVERRULE the objection to Claim 6.

APPEARANCES REQUIRED.

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Debtor(s):

Wasantha K. Leonidas

Represented By
Julie J Villalobos

Movant(s):

Wasantha K. Leonidas

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:17-19739 Wasantha K. Leonidas

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#9.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/19

Also #8

EH__

Docket 42

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Wasantha K. Leonidas

Represented By
Julie J Villalobos

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Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:17-20487 Ann Marie Smith

Chapter 13

#10.00 CONT Stipulation Modifying Plan

From: 4/25/19

EH__

Docket 74

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ann Marie Smith

Represented By
Brian J Soo-Hoo

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CONT... Ann Marie Smith

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Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-13216 Alexander Tofick David

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#11.00 Motion to vacate dismissal

EH__

Docket 80

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alexander Tofick David

Represented By
Brad Weil

Movant(s):

Alexander Tofick David

Represented By
Brad Weil

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CONT... Alexander Tofick David

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Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-14949 Alice Chow

Chapter 13

#12.00 Motion to Disallow Claims No 2

Also #13 & #14

EH__

Docket 35

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

ANALYSIS:

The Court will treat Creditor's failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-(1)(h).

11 U.S.C. § 502(b)(1) (2005) states:

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(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 2 is based on debts created by a written contract. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. Creditor has provided a bill of sale for the debt dated back to June of 2001. There has been no evidence to contradict Debtor's sworn testimony as to the default on the debt in 2001, as well as Debtor's stated date of 2010 being the latest possible year for any payments or transactions on the debt between Debtor and Creditor. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 2 is unenforceable.

TENTATIVE RULING

The Court is inclined to GRANT the motion, DISALLOWING Claim 2 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Alice Chow

Represented By
Andrew Nguyen

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Alice Chow

Chapter 13

Movant(s):

Alice Chow

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:18-14949 Alice Chow

Chapter 13

#13.00 Motion to Disallow Claims 18 and 19

Also #12 & #14

EH__

Docket 36

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

ANALYSIS:

The Court will treat Creditor's failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-(1)(h).

11 U.S.C. § 502(b)(1) (2005) states:

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Judge Mark Houle, Presiding
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11:00 AM

CONT...

Alice Chow

Chapter 13

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claims 18 and 19 are based on debts created by a written contract. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. For both claims the dates of last payment are in 2000, and the charge off dates are in 2001. As such, both claims are barred by the statute of limitations under California Statute and thus unenforceable against the Debtor.

TENTATIVE RULING

The Court is inclined to GRANT the motion, DISALLOWING Claims 18 and 19 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Alice Chow

Represented By
Andrew Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Alice Chow

Chapter 13

Movant(s):

Alice Chow

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:18-14949 Alice Chow

Chapter 13

#14.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/19

Also #12 & #13

EH__

Docket 31

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alice Chow

Represented By
Andrew Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Alice Chow

Chapter 13

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#15.00 Motion For Disgorgement Of Attorney Fees

EH__

Docket 71

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

DISCUSSION

The provision concerning payment of attorney's fees through escrow was opposed by Trustee in their filings. Upon review of the audio recording from the hearing held on March 14, 2019, the Court does find that it weakly supports Counsel's position that this opposition may have been dropped.

However, the Court notes that Counsel's authority to retain the funds comes solely from the order as entered by the Court on March 25, 2019. Counsel appears to have consented to the removal of the provision concerning attorney's fees from the

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CONT... Heinrich Franz Brinkmann

Chapter 13

order, considering that they accepted Trustee's revisions striking the provision, and subsequently lodged the order as revised. In addition, while the order was titled "Order Granting Debtors' Motion for Authority to Sell Real Property," the motion for authority to sell the property itself was never actually ordered to be approved in its entirety within the order itself.

The end result of Counsel's own preparation of their order is that the Court ordered that Debtor had the authority to sell the Property pursuant to the following conditions: (1)- That the Trustee be paid their statutory fees based on the payment of the priority debt to the I.R.S. (2)- That the Debtor was to provide a copy of Final Closing Statement to Trustee immediately upon close of the escrow. (3)- That any excess proceeds from the sale of the Property that becomes due to the Debtor be turned over to the Trustee. The other provisions within the motion, including that concerning attorney's fees, were never included into the order, meaning that Counsel had no authority to keep their fees through escrow.

Even if the provision had been included in the order, the Court still notes to Counsel that the motion requested \$2,250 in attorney's fees to be paid through escrow, yet Counsel received \$6,393.08 from escrow, a discrepancy Counsel has not explained.

TENTATIVE RULING

MAY 23, 2019

SERVICE: PROPER

OPPOSITION: YES

The Court is inclined to GRANT Trustee's motion for disgorgement.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Heinrich Franz Brinkmann

Chapter 13

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-10445 Abidan Aceves and Cindy Aceves

Chapter 13

#16.00 CONT Confirmation of Chapter 13 Plan

From: 3/28/19, 4/25/19

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

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11:00 AM

CONT... Abidan Aceves and Cindy Aceves

Chapter 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Abidan Aceves

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Cindy Aceves

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11090 Angela Clarice Atou

Chapter 13

#17.00 Motion RE: Objection to Claim Number 6 by Claimant Brian Maus & Janet Maus

Also #18

EH__

Docket 17

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angela Clarice Atou

Represented By
Todd L Turoci

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Angela Clarice Atou

Chapter 13

Movant(s):

Angela Clarice Atou

Represented By
Todd L Turoci
Todd L Turoci
Todd L Turoci
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11090 Angela Clarice Atou

Chapter 13

#18.00 CONT Confirmation of Chapter 13 Plan

From: 5/9/19

Also #17

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

**United States Bankruptcy Court
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CONT... **Angela Clarice Atou** **Chapter 13**
() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angela Clarice Atou

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11399 Jeremiah M Moore

Chapter 13

#19.00 CONT Confirmation of Chapter 13 Plan

From: 5/9/19

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

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11:00 AM

CONT... Jeremiah M Moore

Chapter 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeremiah M Moore

Represented By
Tom A Moore

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11410 Rogelio Preciado

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Rogelio Preciado

Chapter 13

Party Information

Debtor(s):

Rogelio Preciado

Represented By
James Geoffrey Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11425 Ryan Mathew Tucker

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/16/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
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Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Ryan Mathew Tucker
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Ryan Mathew Tucker Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11430 Michael L. Williams

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Michael L. Williams

Chapter 13

Party Information

Debtor(s):

Michael L. Williams

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11431 Olivia Susana Norris

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

Confirmed per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

Continued to _____ at **11:00 a.m.**

341 (a) to _____ at _____

Objection: Withdrawn Sustained Overruled Interlineated

Case Dismissed

without prejudice Under § 109(g)

if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Olivia Susana Norris

Chapter 13

Party Information

Debtor(s):

Olivia Susana Norris

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11441 Anthony Tyrone Moore

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/15/19**

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Anthony Tyrone Moore
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Anthony Tyrone Moore Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11454 Jacob Maxwell Stroud

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/15/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Jacob Maxwell Stroud
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Jacob Maxwell Stroud

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11463 Enrique Valeria, Jr. and Rosa Elena Valeria

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Enrique Valeria, Jr. and Rosa Elena Valeria

Chapter 13

Party Information

Debtor(s):

Enrique Valeria Jr.

Represented By
Todd L Turoci

Joint Debtor(s):

Rosa Elena Valeria

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11477 Erika Ramirez

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/4/19**

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Erika Ramirez
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Erika Ramirez

Represented By
Marend M Garrett

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11480 John J. Culp

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... John J. Culp

Chapter 13

Party Information

Debtor(s):

John J. Culp

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11484 Kevin Radoc and Jenelle Radoc

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Kevin Radoc and Jenelle Radoc

Chapter 13

Party Information

Debtor(s):

Kevin Radoc

Represented By
Paul Y Lee

Joint Debtor(s):

Jenelle Radoc

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11486 Steven Eric Armil and Karen Ann Savel

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/18/19**

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Steven Eric Armil and Karen Ann Savel
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Steven Eric Armil Pro Se

Joint Debtor(s):

Karen Ann Savel Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11503 Juan Manuel Andrade

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/18/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... **Juan Manuel Andrade**
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Juan Manuel Andrade

Represented By
James D Cuzzolina

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11515 James Ralph Albano

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: VOLUNTARILY DISMISSED 5/22/19

Matter Notes:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Ralph Albano

Represented By
Derik N Lewis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11522 Eugenio Giuseppe Mannella

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Eugenio Giuseppe Mannella

Chapter 13

Party Information

Debtor(s):

Eugenio Giuseppe Mannella

Represented By
Suzette Douglas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11586 Jerome D Williams

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Jerome D Williams

Chapter 13

Party Information

Debtor(s):

Jerome D Williams

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11610 Tommy Leroy Weathers, Sr

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH__

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Tommy Leroy Weathers, Sr

Chapter 13

Party Information

Debtor(s):

Tommy Leroy Weathers Sr

Represented By
Alon Darvish

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11612 David Martin Hackworth and Isabel Meru Hackworth

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... David Martin Hackworth and Isabel Meru Hackworth

Chapter 13

Party Information

Debtor(s):

David Martin Hackworth

Represented By
Edward G Topolski

Joint Debtor(s):

Isabel Meru Hackworth

Represented By
Edward G Topolski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11619 David Ray Bowman and Michelle Jan Bowman

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... David Ray Bowman and Michelle Jan Bowman

Chapter 13

Party Information

Debtor(s):

David Ray Bowman

Represented By
Carey C Pickford

Joint Debtor(s):

Michelle Jan Bowman

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11692 Julian Keith A. Vernon and Marie A. Vernon

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

Confirmed per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

Continued to _____ at **11:00 a.m.**

341 (a) to _____ at _____

Objection: Withdrawn Sustained Overruled Interlineated

Case Dismissed

without prejudice Under § 109(g)

if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Julian Keith A. Vernon and Marie A. Vernon

Chapter 13

Party Information

Debtor(s):

Julian Keith A. Vernon

Represented By
Stuart G Steingraber

Joint Debtor(s):

Marie A. Vernon

Represented By
Stuart G Steingraber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11705 Octavio P Garcia

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/22/19**

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Octavio P Garcia
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Octavio P Garcia Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11710 Heather Ann Pessoa Bond

Chapter 13

#40.00 CONT Motion for Order Determining Value of Collateral [11 U.S.C. § 506(a), FRBP 3012]: 2015 Chrysler 200

From: 4/25/19, 5/9/19

Also #41

EH__

Docket 25

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY_____ **ORDER BY CHAMBERS**_____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

According to the court in *In re Morales*, 387 B.R. 36 (Bankr.C.D.Cal.2008)., the retail values, and not the private party values, are the appropriate starting points for property valuation because the text of 11 U.S.C. § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Heather Ann Pessoa Bond

Chapter 13

Morales at 46.

Here, Debtor has provided a Kelly Blue Book report identifying the private party value of the Chrysler 200. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

4/25/2019

SERVICE: PROPER

OPPOSITION: NONE

The Court is inclined to CONTINUE the hearings for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

Movant(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11710 Heather Ann Pessoa Bond

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

Also #40

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Heather Ann Pessoa Bond

Chapter 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11715 Ramona Laurentina Gonzales

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/22/19**

Matter Notes:

Appearances: _____

Consent Calendar_____

Confirmed per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

Continued to _____ at **11:00 a.m.**

341 (a) to _____ at _____

Objection: Withdrawn Sustained Overruled Interlineated

Case Dismissed

without prejudice Under § 109(g)

if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... **Ramona Laurentina Gonzales**
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Ramona Laurentina Gonzales Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11733 Robert Wayne Young

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/12/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Robert Wayne Young
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Robert Wayne Young

Represented By
Joshua R Engle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11751 Leonard Lott and Darlene Lott

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Leonard Lott and Darlene Lott

Chapter 13

Party Information

Debtor(s):

Leonard Lott

Represented By
Daniel King

Joint Debtor(s):

Darlene Lott

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11757 Virginia Ann Bennett

Chapter 13

#45.00 CONT Motion for Relief from Stay

MOVANT: CAPITAL AUTO FINANCIAL

From: 4/16/19

Also #46

EH__

Docket 9

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Virginia Ann Bennett

Chapter 13

Debtor(s):

Virginia Ann Bennett

Represented By
Lionel E Giron
Crystle Jane Lindsey

Movant(s):

Capital Auto Financial

Represented By
Gennady L Lebedev

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11757 Virginia Ann Bennett

Chapter 13

#46.00 Confirmation of Chapter 13 Plan

Also #45

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Virginia Ann Bennett

Chapter 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Virginia Ann Bennett

Represented By
Lionel E Giron
Crystle Jane Lindsey

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11766 Hassan Mohamad Adib Yahya

Chapter 13

#47.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Hassan Mohamad Adib Yahya

Chapter 13

Party Information

Debtor(s):

Hassan Mohamad Adib Yahya

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11785 Juan Carlos Cortez

Chapter 7

#48.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
3/20/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Juan Carlos Cortez

Chapter 7

- NONE LISTED -

Party Information

Debtor(s):

Juan Carlos Cortez

Pro Se

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11792 Clifford Leon Parks

Chapter 13

#49.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Clifford Leon Parks

Chapter 13

Party Information

Debtor(s):

Clifford Leon Parks

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11794 Fernando Coronel and Maria Coronel

Chapter 13

#50.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Fernando Coronel and Maria Coronel

Chapter 13

Party Information

Debtor(s):

Fernando Coronel

Represented By
Raymond Perez

Joint Debtor(s):

Maria Coronel

Represented By
Raymond Perez

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11821 Susan Fontelera Fontecha

Chapter 13

#51.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/25/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

Confirmed per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

Continued to _____ at **11:00 a.m.**

341 (a) to _____ at _____

Objection: Withdrawn Sustained Overruled Interlineated

Case Dismissed

without prejudice Under § 109(g)

if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Susan Fontelera Fontecha
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Susan Fontelera Fontecha Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11835 Eusebio H Martinez

Chapter 13

#52.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Eusebio H Martinez

Chapter 13

Party Information

Debtor(s):

Eusebio H Martinez

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11859 Rebecca Marie Quatrochi-Lott

Chapter 13

#53.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Rebecca Marie Quatrochi-Lott

Chapter 13

Party Information

Debtor(s):

Rebecca Marie Quatrochi-Lott

Represented By
Mona V Patel

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11863 Michelle Kiklang Takawo

Chapter 13

#54.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/26/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Michelle Kiklang Takawo
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Michelle Kiklang Takawo Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11900 Asim Muhammad Farooq and Afifa Farooq

Chapter 13

#55.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Asim Muhammad Farooq and Afifa Farooq

Chapter 13

Party Information

Debtor(s):

Asim Muhammad Farooq

Represented By
Dana Travis

Joint Debtor(s):

Afifa Farooq

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11911 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#56.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

Party Information

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11919 Ramiro Delgado Flores

Chapter 7

#57.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
4/15/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Ramiro Delgado Flores

Chapter 7

- NONE LISTED -

Party Information

Debtor(s):

Ramiro Delgado Flores

Represented By
Andrew S Bisom

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11923 Kristi Jill Kasel

Chapter 13

#58.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Kristi Jill Kasel

Chapter 13

Party Information

Debtor(s):

Kristi Jill Kasel

Represented By
Aaron Lloyd

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11933 Maxine Tann

Chapter 13

#59.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Maxine Tann

Chapter 13

Party Information

Debtor(s):

Maxine Tann

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11946 Lucenia E Ortiz

Chapter 13

#60.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/29/19**

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Lucenia E Ortiz
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Lucenia E Ortiz Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11963 Pamela M Bradford

Chapter 13

#61.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Pamela M Bradford

Chapter 13

Party Information

Debtor(s):

Pamela M Bradford

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-11992 Pablo Cornejo

Chapter 13

#62.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Pablo Cornejo

Chapter 13

Party Information

Debtor(s):

Pablo Cornejo

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12001 Maria Camello

Chapter 13

#63.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Maria Camello

Chapter 13

Party Information

Debtor(s):

Maria Camello

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12006 Blake J. Simpson

Chapter 13

#64.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 3/20/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

Confirmed per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

Continued to _____ at **11:00 a.m.**

341 (a) to _____ at _____

Objection: Withdrawn Sustained Overruled Interlineated

Case Dismissed

without prejudice Under § 109(g)

if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Blake J. Simpson
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Blake J. Simpson

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12053 Rudy Ramirez

Chapter 13

#65.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/1/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

Confirmed per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

Continued to _____ at **11:00 a.m.**

341 (a) to _____ at _____

Objection: Withdrawn Sustained Overruled Interlineated

Case Dismissed

without prejudice Under § 109(g)

if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Rudy Ramirez
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Rudy Ramirez Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12075 Paul D Sheridan and Gloria J Sheridan

Chapter 13

#66.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Paul D Sheridan and Gloria J Sheridan

Chapter 13

Party Information

Debtor(s):

Paul D Sheridan

Represented By
Robert W Ripley

Joint Debtor(s):

Gloria J Sheridan

Represented By
Robert W Ripley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12079 Nora Munoz

Chapter 13

#67.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Nora Munoz

Chapter 13

Party Information

Debtor(s):

Nora Munoz

Represented By
William Radcliffe

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12090 Gilbert Soto and Nancy Soto

Chapter 13

#68.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

Confirmed per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

Continued to _____ at **11:00 a.m.**

341 (a) to _____ at _____

Objection: Withdrawn Sustained Overruled Interlineated

Case Dismissed

without prejudice Under § 109(g)

if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Gilbert Soto and Nancy Soto

Chapter 13

Party Information

Debtor(s):

Gilbert Soto

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Nancy Soto

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12113 Rudy Torres Garcia and Irma Valencia Garcia

Chapter 13

#69.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Rudy Torres Garcia and Irma Valencia Garcia

Chapter 13

Party Information

Debtor(s):

Rudy Torres Garcia

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Irma Valencia Garcia

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12114 Frank Prouty

Chapter 13

#70.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/2/19**

Matter Notes:

Appearances: _____

Consent Calendar _____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$ _____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Frank Prouty
- NONE LISTED -

Chapter 13

Party Information

Debtor(s):

Frank Prouty

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12127 Xavier Cornelius McKinstry and Millicent Deanna

Chapter 13

#71.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Matter Notes:

Appearances: _____

Consent Calendar_____

() **Confirmed** per Tr's recommendation-Plan provisions:% to pay _____

Duration _____

Payment \$_____

() **Continued** to _____ at **11:00 a.m.**

341 (a) to _____ at _____

() **Objection:** () Withdrawn () Sustained () Overruled () Interlineated

() **Case Dismissed**

() without prejudice () Under § 109(g)

() if conversion to chapter 7 not filed and fee paid within 10 days

Evidentiary Hearing Set: _____

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Xavier Cornelius McKinstry and Millicent Deanna

Chapter 13

Party Information

Debtor(s):

Xavier Cornelius McKinstry

Represented By
Gregory M Shanfeld

Joint Debtor(s):

Millicent Deanna McKinstry

Represented By
Gregory M Shanfeld

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12375 Terry L. Hogle

Chapter 13

#72.00 Motion for Setting Property Value for 2014 Buick Verano

EH__

Docket 15

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011). *In re Penrod* concerned itself with an identical fact pattern to the one presented here, with the debtor there seeking to bifurcate the "negative equity" created by trading in a vehicle on which she stilled

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Terry L. Hogle

Chapter 13

owed significant funds, just as Debtor here is seeking to do. *Id.* at 1160. However, there is still the question of valuation.

Presently the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided the Kelley Blue Book private party valuation for the Property. Normally, the Court would continue this matter, and request that Debtor return with the retail valuation of the vehicle as evidence. However, here the retailer set the Property's cash value at \$13,599 and Debtor is seeking to establish a value of \$14,983.68, nearly \$1,400 higher than the retailer's own valuation of the Property. As such, the Court is inclined to find that Debtor has submitted sufficient evidence to support their valuation of the Property.

TENTATIVE RULING

5/23/2019

SERVICE: PROPER

OPPOSITION: NONE

The Court is inclined to GRANT Debtor's motion to value their 2014 Buick Verano at \$14,983.68, with a resulting secured claim of \$14,983.68 and a general unsecured claim of \$5,183.32.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Terry L. Hogle

Chapter 13

Debtor(s):

Terry L. Hogle

Represented By
Kevin Tang

Movant(s):

Terry L. Hogle

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-12676 Anthony P Mendoza and Lena E Mendoza

Chapter 13

#73.00 Amended Motion (related document(s): 19 Motion Determining Value of Collateral

EH__

Docket 20

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY_____ **ORDER BY CHAMBERS**_____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony P Mendoza

Represented By
Paul Y Lee

Joint Debtor(s):

Lena E Mendoza

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Anthony P Mendoza and Lena E Mendoza

Chapter 13

Paul Y Lee

Movant(s):

Anthony P Mendoza

Represented By
Paul Y Lee

Lena E Mendoza

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:19-13374 Michael Arthur Eidsvoog and Kathyryn Michelle Eidsvoog

Chapter 13

#74.00 Motion for Setting Property Value

EH__

Docket 17

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

Presently the Ninth Circuit has not established a uniform method for valuations. *See*

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... **Michael Arthur Eidsvoog and Kathyryn Michelle Eidsvoog** Chapter 13

In re Ayres, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has properly submitted a NADAguides clean retail valuation of \$9,750.00. The Court finds this to be sufficient evidence under *Morales*.

TENTATIVE RULING

5/23/2019

SERVICE: PROPER

OPPOSITION: NONE

The Court is inclined to GRANT Debtor's motion to value their 2013 Nissan Rogue S at \$9,750.00, with a resulting secured claim of \$9,750.00 and a general unsecured claim of \$1,729.96.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Arthur Eidsvoog

Represented By
Todd L Turoci

Joint Debtor(s):

Kathyryn Michelle Eidsvoog

Represented By
Todd L Turoci

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Michael Arthur Eidsvoog and Kathryn Michelle Eidsvoog

Chapter 13

Movant(s):

Michael Arthur Eidsvoog

Represented By
Todd L Turoci

Kathryn Michelle Eidsvoog

Represented By
Todd L Turoci
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:17-12232 Margarito Martinez

Chapter 13

Adv#: 6:19-01051 Martinez v. Garza et al

#75.00 Status Conference RE: [1] Adversary case 6:19-ap-01051. Complaint by Margarito Martinez against Cesar Emilo Garza, Noe Pelayo, George Arthur Macias, Flor Valladares, Henry Gonzalez, West Coast Realty, Inc., Grand Capital Group, M&M Associates. (Charge To Estate - \$350.00). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Langley, Christopher)

EH__

Docket 1

Matter Notes:

Appearances: _____

Order by Attorney _____ **Order by Chambers** _____

Status Conference cont'd. to: _____

Pretrial Conf set for: _____ **Trial set for:** _____

Joint Status Report due: _____ **Scheduling order due** _____

Discovery cutoff: _____

Last day to file pretrial motions and pretrial order: _____

Complete 1 day of mediation by: _____ **Order appointing Mediator** _____

Evidentiary Hearing Set: _____

Tentative Ruling:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Margarito Martinez

Chapter 13

- NONE LISTED -

Party Information

Debtor(s):

Margarito Martinez

Represented By
Christopher J Langley

Defendant(s):

Cesar Garza

Pro Se

Noe Pelayo

Pro Se

George Arthur Macias

Pro Se

Flor Valladares

Pro Se

Henry Gonzalez

Pro Se

West Coast Plus Realty, Inc.

Pro Se

Grand Capital Group

Pro Se

M&M Associates

Pro Se

Plaintiff(s):

Margarito Martinez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#76.00 Order to show cause why case should not be dismissed for lack of prosecution

Also #77

EH__

Docket 165

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luevina Henry

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Luevina Henry

Chapter 13

Defendant(s):

Real Time Resolutions Inc

Represented By
Renee M Parker

THE BANK OF NEW YORK

Represented By
Renee M Parker

Riverside County Sheriff

Represented By
Ronak N Patel

Tavares

Pro Se

Plaintiff(s):

Luevina Henry

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#77.00 CONT Status Conference on Complaint fld 8-25-17 - Dischargeability, willful and malicious injury, validity, priority or extent of lien or other interest in property, injunctive relief

From: 11/16/17, 11/1/18, 12/20/18, 12/20/18, 2/7/19, 3/28/19

Also #76

EH__

Docket 1

Matter Notes:

Appearances: _____

Order by Attorney _____ **Order by Chambers** _____

Status Conference cont'd. to: _____

Pretrial Conf set for: _____ **Trial set for:** _____

Joint Status Report due: _____ **Scheduling order due** _____

Discovery cutoff: _____

Last day to file pretrial motions and pretrial order: _____

Complete 1 day of mediation by: _____ **Order appointing Mediator** _____

Evidentiary Hearing Set: _____

Tentative Ruling:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:00 AM

CONT... Luevina Henry

Chapter 13

- NONE LISTED -

Party Information

Debtor(s):

Luevina Henry Pro Se

Defendant(s):

Real Time Resolutions Inc Represented By
Renee M Parker

THE BANK OF NEW YORK Represented By
Renee M Parker

Riverside County Sheriff Represented By
Ronak N Patel

Tavares Pro Se

Plaintiff(s):

Luevina Henry Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:14-10793 Robert Anthony Maruffo and Allison Marie Maruffo

Chapter 13

#78.00 Trustee's Motion to Dismiss Case

EH__

Docket 82

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Anthony Maruffo

Represented By
Carey C Pickford

Joint Debtor(s):

Allison Marie Maruffo

Represented By
Carey C Pickford

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Robert Anthony Maruffo and Allison Marie Maruffo

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:14-24807 Bryan K. Harrison and Dawn Harrison

Chapter 13

#79.00 Trustee's Motion to Dismiss Case

EH__

Docket 133

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bryan K. Harrison

Represented By
April E Roberts

Joint Debtor(s):

Dawn Harrison

Represented By
April E Roberts

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Bryan K. Harrison and Dawn Harrison

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:15-17561 Cresencio Ramirez Ramirez and Maria Olga Ramirez

Chapter 13

#80.00 Trustee's Motion to Dismiss Case

EH__

Docket 153

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cresencio Ramirez Ramirez

Represented By
John F Brady

Joint Debtor(s):

Maria Olga Ramirez

Represented By
John F Brady

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Cresencio Ramirez Ramirez and Maria Olga Ramirez

Chapter 13

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:15-22294 Jonathan William Nicastro

Chapter 13

#81.00 CONT Trustee's Motion to Dismiss Case re Infeasibility of Plan

From: 4/25/19

Also #82

EH__

Docket 161

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jonathan William Nicastro

Represented By
Rabin J Pournazarian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Jonathan William Nicastro

Chapter 13

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:15-22294 Jonathan William Nicastro

Chapter 13

#82.00 Trustee's Motion to Dismiss Case re Delinquency

Also #81

EH__

Docket 169

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/30/19

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jonathan William Nicastro

Represented By
Rabin J Pournazarian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Jonathan William Nicastro

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:16-15668 Roger C Jefferson

Chapter 13

#83.00 Trustee's Motion to Dismiss Case

EH__

Docket 111

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roger C Jefferson

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:16-17215 Carmen Saucedo

Chapter 13

#84.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 50

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/16/19

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carmen Saucedo

Represented By
Michael Smith
Craig K Streed

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Carmen Saucedo

Sundee M Teeple

Chapter 13

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:17-10082 Francisco R Palacios

Chapter 13

#85.00 Trustee's Motion to Dismiss Case

EH__

Docket 193

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Francisco R Palacios

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:17-11760 Jose Tinoco and Monica Tinoco

Chapter 13

#86.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 29

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Tinoco

Represented By
Juanita V Miller

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Jose Tinoco and Monica Tinoco

Chapter 13

Joint Debtor(s):

Monica Tinoco

Represented By
Juanita V Miller

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:17-11831 Gregory Dwight Vit

Chapter 13

#87.00 Trustee's Motion to Dismiss Case

EH__

Docket 55

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gregory Dwight Vit

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:17-12232 Margarito Martinez

Chapter 13

#88.00 Trustee's Motion to Dismiss Case

EH__

Docket 69

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Margarito Martinez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-11403 Dony M Portillo and Raquel A Portillo

Chapter 13

#89.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 50

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dony M Portillo

Represented By
Paul Y Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Dony M Portillo and Raquel A Portillo

Chapter 13

Joint Debtor(s):

Raquel A Portillo

Represented By
Paul Y Lee
Andrea Liddick

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-12177 Rodolfo Aguiar and Irma D Aguiar

Chapter 13

#90.00 Trustee's Motion to Dismiss Case

EH__

Docket 52

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/6/19

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rodolfo Aguiar

Represented By
Alla Tenina

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Rodolfo Aguiar and Irma D Aguiar

Chapter 13

Joint Debtor(s):

Irma D Aguiar

Represented By
Alla Tenina

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-13796 Charles Anthony Anunciacion and Lisa Rhea Anunciacion

Chapter 13

#91.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Anthony Anunciacion

Represented By
Jeffrey B Smith

Joint Debtor(s):

Lisa Rhea Anunciacion

Represented By
Jeffrey B Smith

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Charles Anthony Anunciacion and Lisa Rhea Anunciacion

Chapter 13

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-14867 Richard Cornelius and Naomi Rodriguez-Cornelius

Chapter 13

#92.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Cornelius

Represented By
Paul Y Lee

Joint Debtor(s):

Naomi Rodriguez-Cornelius

Represented By
Paul Y Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Richard Cornelius and Naomi Rodriguez-Cornelius

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-16694 Cynthia M Gonzalez and Guadalupe Siddiqui

Chapter 13

#93.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 40

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cynthia M Gonzalez

Represented By
Paul Y Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Cynthia M Gonzalez and Guadalupe Siddiqui

Chapter 13

Joint Debtor(s):

Guadalupe Siddiqui

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-17624 Jose Antonio Velasco and Lilian Micaela Velasco

Chapter 13

#94.00 Trustee's Motion to Dismiss Case

EH__

Docket 45

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Antonio Velasco

Represented By
Danny K Agai

Joint Debtor(s):

Lilian Micaela Velasco

Represented By
Danny K Agai

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Jose Antonio Velasco and Lilian Micaela Velasco

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-17676 Patricia Ellen Bond-Gomez

Chapter 13

#95.00 CONT Trustee's Motion to Dismiss Case

From: 3/28/19, 4/25/19

EH__

Docket 30

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Ellen Bond-Gomez

Represented By
John F Brady

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Patricia Ellen Bond-Gomez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-17869 Michael Ferriola

Chapter 13

#96.00 CONT Trustee's Motion to Dismiss Case

From: 5/9/19

EH__

Docket 28

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/15/19

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Ferriola

Represented By
Keith Q Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Michael Ferriola

Chapter 13

Movant(s):

Rod Danielson (TR) Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-19376 Matthew J Whyte and Laura M Whyte

Chapter 13

#97.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Matthew J Whyte

Represented By
William J Howell

Joint Debtor(s):

Laura M Whyte

Represented By
William J Howell

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Matthew J Whyte and Laura M Whyte

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-19781 Adolfo Nabor

Chapter 13

#98.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 37

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/15/19

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Adolfo Nabor

Represented By
Jaime G Monteclaro

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Adolfo Nabor

Chapter 13

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-20245 Jennifer Lynn Miller

Chapter 13

#99.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ ORDER BY CHAMBERS _____

GRANTED: _____ DENIED: _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ OBJ OVERRULED: _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Lynn Miller

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

6:18-12549 Billy Wayne Shipman, Jr. and Andrea Shipman

Chapter 13

#100.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

Matter Notes:

APPEARANCES: _____

ORDER BY ATTORNEY _____ **ORDER BY CHAMBERS** _____

GRANTED: _____ **DENIED:** _____

CONT'D. TO: _____

WITHDRAWN: _____

OBJ SUSTAINED: _____ **OBJ OVERRULED:** _____

EVIDENTIARY HEARING SET: _____

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Billy Wayne Shipman Jr.

Represented By
Andrew Nguyen

Joint Debtor(s):

Andrea Shipman

Represented By
Andrew Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 23, 2019

Hearing Room 303

11:01 AM

CONT... Billy Wayne Shipman, Jr. and Andrea Shipman

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:15-19432 Kirk Eugene Frantz and Mary Elizabeth Frantz

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 152079 Rio Vista Road, Big River, CA 92242

MOVANT: BAYVIEW LOAN SERVICING LLC

EH__

Docket 155

***** VACATED *** REASON: CONTINUED 6/4/19 AT 10 AM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Eugene Frantz

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Mary Elizabeth Frantz

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney
Edward G Schloss

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:16-15902 Dinari Williams and Chandra Denman-Williams

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 Toyota Tundra

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH__

Docket 49

***** VACATED *** REASON: ORDER ENTERED 5/24/19**

Tentative Ruling:

Party Information

Debtor(s):

Dinari Williams

Represented By
Emilia N McAfee

Joint Debtor(s):

Chandra Denman-Williams

Represented By
Emilia N McAfee

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:17-11132 Jose V Arredondo

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5754 Felspar Street, Riverside, California 92509-4903

MOVANT: WILMINGTON SAVINGS FUND SOCIETY, FSB

EH__

Docket 47

*** VACATED *** REASON: CONTINUED TO 6/25/19 AT 10 A.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose V Arredondo

Represented By
Benjamin A Yrungaray

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kelsey X Luu
Sean C Ferry
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:17-18270 Linnea Rennee-Chrismon Allen

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11623 Primavera Road, Pinon Hills, CA 92372

MOVANT: SPECIALIZED LOAN SERVICING LLC

EH__

Docket 34

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT movant ability to proceed under applicable nonbankruptcy law to enforce its remedies. GRANT waiver of 14-day stay prescribed by FRBP 4001(a)(3). GRANT defining Debtor as borrower in 2920.5(c)(2)(C).

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Linnea Rennee-Chrismon Allen

Represented By
Scott Kosner

Movant(s):

SPECIALIZED LOAN SERVICING

Represented By
Mukta Suri
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Linnea Rennee-Chrismon Allen

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:17-20489 Michael S McGowan and Brandy L McGowan

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 HONDA PILOT, VIN: 5FNY F5H5 9GB0 35100

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

Docket 49

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1). GRANT request to proceed under applicable nonbankruptcy law to enforce its remedies. GRANT termination of co-debtor stay of 11 U.S.C. § 1201(a) or § 1301(a). GRANT waiver of 14-day stay prescribed by FRBP 4001(a)(3). DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael S McGowan

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Brandy L McGowan

Represented By
Terrence Fantauzzi

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Michael S McGowan and Brandy L McGowan

Chapter 13

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:18-13292 Bernice Hernandez Antunez

Chapter 13

#6.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2180 Cordillera Avenue, Colton, CA 92324

MOVANT: U.S. BANK NATIONAL ASSOCIATION

From: 4/16/19, 4/30/19

EH__

Docket 25

***** VACATED *** REASON: ORDER ENTERED 5/20/19**

Tentative Ruling:

4/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from Rule 4001 stay. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from the co-debtor stay under § 1301(a). GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Bernice Hernandez Antunez

Represented By
Daniel King

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Bernice Hernandez Antunez

Chapter 13

Movant(s):

U.S. Bank National Association, as

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:18-17597 David Meisland

Chapter 13

#7.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 26818 Montseratt Court, Murrieta, California 92563

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

From: 3/26/19, 4/30/19

EH__

Docket 39

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David Meisland

Represented By
Nima S Vokshori

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:18-18869 Arturo Garcia, Jr.

Chapter 13

#8.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15527 Villa Del Rio Road, California 92337

MOVANT: BANK OF AMERICA N.A.

From: 4/30/19

EH__

Docket 29

Tentative Ruling:

4/30/2019

Service is Proper as to Debtor
Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Arturo Garcia Jr.

Represented By
Christopher J Langley

Movant(s):

Bank of America, N.A.

Represented By
Asya Landa
Diana Torres-Brito

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Arturo Garcia, Jr.

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:18-19044 Kimberly Ida McGee Hager

Chapter 13

#9.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 32392 Scandia Drive, Running Springs, California 92382

MOVANT: PENNYMAC LOAN SERVICES LLC

From: 4/30/19

EH__

Docket 26

***** VACATED *** REASON: ORDER ENTERED 5/1/19**

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears and adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Kimberly Ida McGee Hager

Represented By
Chris A Mullen

Movant(s):

PennyMac Loan Services, LLC

Represented By
Robert P Zahradka

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:18-19494 Rachel Ann Sullivan

Chapter 13

#10.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1807 Church St Redlands, CA 92374

MOVANT: CHAMPION MORTGAGE COMPANY (NATIONSTAR MORTGAGE LLC, DBA)

From: 4/30/19

EH__

Docket 28

*** VACATED *** REASON: ORDER ENTERED 5/7/19

Tentative Ruling:

4/30/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions and payment of property taxes.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Rachel Ann Sullivan

Represented By
Chris A Mullen

Movant(s):

Champion Mortgage Company, et al

Represented By
Asya Landa
Diana Torres-Brito

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Rachel Ann Sullivan

Alexander G Meissner

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:19-11599 Robert S. Frederick

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3535 S. Cloverdale Ave., Los Angeles, CA 90016

MOVANT: WESCOM CENTRAL CREDIT UNION

EH__

Docket 9

Tentative Ruling:

5/28/2019

Service is Okay
Opposition: None

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1). GRANT to movant to proceed under applicable nonbankruptcy law to enforce its remedies. GRANT waiver of 14-day stay prescribed by FRBP 4001(a)(3). DENY paragraph 7 request to evict the Debtor and any other occupant for a period of 180 days from the hearing upon recording copy of this order. GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(4). GRANT the order as binding and effective in any bankruptcy case commenced against any debtor who claims an interest in the Property. DENY paragraph 10 request that order is binding and effective in any future bankruptcy case.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Robert S. Frederick

Represented By
Ahren A Tiller

Movant(s):

Wescom Central Credit Union

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Robert S. Frederick

Karel G Rocha

Chapter 7

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:19-11741 Laura Ann Haas

Chapter 7

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Mitsubishi Lancer Sedan 4D DE

MOVANT: GATEWAY ONE LENDING & FINANCE

EH__

Docket 9

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT movant proceeding under nonbankruptcy law to enforce remedies. GRANT waiver of 14-day stay prescribed by FRBP 4001(a)(3).

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Laura Ann Haas

Represented By
Daniel King

Movant(s):

Gateway One Lending & Finance

Represented By
Karel G Rocha

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:19-11911 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 Fiat 500, VIN: 3C3CFFBR0CT116515

MOVANT: SANTANDER CONSUMER USA INC

EH__

Docket 32

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas M Wajda

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

Movant(s):

Santander Consumer USA Inc.,

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:19-11919 Ramiro Delgado Flores

Chapter 7

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 8083 Surrey Lane, Alta Loma, California 91701

MOVANT: U.S. BANK NATIONAL ASSOCIATION

EH__

Docket 25

Tentative Ruling:

5/28/2019

Service is Proper

Opposition: Yes

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1). GRANT to movant to proceed under applicable nonbankruptcy law to enforce its remedies. GRANT waiver of 14-day stay prescribed by FRBP 4001(a)(3). GRANT the Debtor be defined as a borrower pursuant to Cal. Civ. Code § 2920.5(c) (2)(C).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ramiro Delgado Flores

Represented By
Andrew S Bisom

Movant(s):

U.S. Bank National Association, as

Represented By
Darren J Devlin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Ramiro Delgado Flores

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:19-12663 Martin J Brennan

Chapter 7

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Lexus, RX350, VIN 2T2BZMCA8JC146711

MOVANT: NAVY FEDERAL CREDIT UNION

EH__

Docket 8

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Martin J Brennan

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Navy Federal Credit Union

Represented By
Alexander G Meissner

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Martin J Brennan

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:19-13331 Amie L Pannazzo

Chapter 7

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 ACURA TLX, VIN: 19UU B2F6 1JA0 12982

MOVANT: HONDA LEASE TRUST

EH__

Docket 18

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Amie L Pannazzo

Represented By
Qais Zafari

Movant(s):

Honda Lease Trust

Represented By
Vincent V Frounjian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Amie L Pannazzo

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:19-13345 Jamie E Wendt

Chapter 7

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Jayco Jay Flight 24 RBS Travel Trailer

MOVANT: BANK OF THE WEST

EH__

Docket 8

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jamie E Wendt

Represented By
Paul Y Lee

Movant(s):

BANK OF THE WEST

Represented By
Mary Ellmann Tang

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:19-13408 Rafael Uribe and Elodia Navarette

Chapter 7

#18.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 11213 Maryvine Street, El Monte, CA 91733

MOVANT: NULEVEL PARTNERS INC

EH__

Docket 12

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies. GRANT relief from Rule 4001 stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Rafael Uribe Pro Se

Joint Debtor(s):

Elodia Navarette Pro Se

Movant(s):

Nulevel Partners Inc., Trustee Represented By
Henry D Paloci

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

CONT... Rafael Uribe and Elodia Navarette

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

10:00 AM

6:19-13498 Douglas Alfredo Figueroa-Ramirez and Dulce Karina

Chapter 7

#19.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Honda Accord

MOVANT: BANK OF THE WEST

EH__

Docket 7

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT movant may proceed under applicable nonbankruptcy law to enforce remedies. GRANT waiver of 14-day stay pursuant to FRBP 4001(a)(3).

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Douglas Alfredo Figueroa-Ramirez

Represented By
Michael H Colmenares

Joint Debtor(s):

Dulce Karina Cabrera

Represented By
Michael H Colmenares

Movant(s):

BANK OF THE WEST

Represented By
Mary Ellmann Tang

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Tuesday, May 28, 2019

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10:00 AM

CONT... Douglas Alfredo Figueroa-Ramirez and Dulce Karina

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

2:00 PM

6:16-19993 B & B Family, Incorporated

Chapter 11

#20.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 12/13/16, 3/7/17, 5/30/17, 7/25/17, 9/26/17, 10/31/17, 11/7/17, 5/15/18,
8/21/18, 1/15/19, 3/5/19, 4/30/19

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B & B Family, Incorporated

Represented By
Todd L Turoci
Julie Philippi

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

2:00 PM

6:17-15717 AMJ Plumbing Specialists Corp.

Chapter 11

#21.00 CONT Post Confirmation Status Conference

From: 12/18/18, 4/16/19

EH__

Docket 161

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

AMJ Plumbing Specialists Corp.

Represented By
David Lozano

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#22.00 Stipulation By Visiting Nurse Association of the Inland Counties and Stipulation for (1) Allowance and Payment of Administrative Rent Claim; and (2) Use of Cash Collateral

EH__

Docket 373

Tentative Ruling:

5/28/19

The Court having reviewed the Motion, good cause appearing, notice and being proper, noting the lack of opposition (USA having withdrawn its opposition), the Court is inclined to APPROVE the stipulation.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner

Movant(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
David M Goodrich
Beth Gaschen
Beth Gaschen
Jennifer Vicente

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Hearing Room 303

2:00 PM

CONT...

Visiting Nurse Association of the Inland Counties

Chapter 11

Jennifer Vicente
Ryan W Beall
Ryan W Beall
Steven T Gubner
Steven T Gubner

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, May 28, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#23.00 Trustee's Motion to Dismiss Case or to Convert Case

Also #24 & #25

EH__

Docket 138

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

United States Trustee (RS)

Represented By
Everett L Green
Abram Feuerstein esq

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, May 28, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#24.00 Motion for Order: (1) Authorizing Gibraltar Graphic's Inc., Non-Debtor's Sale of Assets to RITT Industries, LLC; and (2) Approving Sale Agreement between the Debtor, Metrix Capital, LLC and RITT Industries, LLC; and (3) Authorizing the Debtor to make a Distribution to the Creditors of the Estate

Also #23 & #25

EH__

Docket 141

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, May 28, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#25.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 8/21/18, 10/16/18, 12/4/18, 12/18/18, 1/15/19, 2/5/19, 4/16/19

Also #23 & #24

EH __

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 29, 2019

Hearing Room 303

11:00 AM

6:11-34566 Jeffrey Steven Dean

Chapter 7

#1.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 137

Tentative Ruling:

Upon review of Trustee's services, the Court finds that the statutory maximum is a reasonable request in this matter. In addition, the Court finds that the Trustee has properly calculated his fees.

The Court has reviewed Trustee's accounting of his expenses and finds them reasonable.

The Court has reviewed Counsel for Trustee's application for compensation, as well as the agreed upon stipulation entered Counsel for Trustee and the United States Trustee and finds the reduced amount for their final fee application of \$4,607 in fees (for a case total amount of \$12,575.50) to be reasonable. Counsel for Trustee's expenses are also found reasonable.

The Court objects to Accountant for Trustee's final application for compensation and fees in the amount of \$6,234 in fees. In particular, the Court finds that a request for \$1,479.00 for preparing a fee application covering \$3,448 in total services is unreasonable. The Court is inclined to reduce this amount by 50%, for a reduction of \$739.50. The Court is thus inclined to grant Accountant's final application in the reduced amount of \$5,494.50, for a case total of \$19,416.

The Court has reviewed Account for Trustee's accounting of their expenses and finds them reasonable.

The Court, upon review of the remaining administrative requests, wholly objects to the \$500 payment to Lissebeck Law for "other professional expenses", as neither Lissebeck, nor Trustee, has explained the request. The Court finds the remaining requests to be generally reasonable.

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Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 29, 2019

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11:00 AM

CONT... Jeffrey Steven Dean

Chapter 7

TENTATIVE RULING

Date: 5/29/2019
Opposition: None
Service: Proper

The applications for compensation of the Trustee, Counsel for the Trustee, and Trustee acting in the role of Accountant for the Estate, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: in the reduced amount of \$ 14,028.79 (\$ 6,028.79 remaining to be paid).
Trustee Expenses: \$ 895.13 (\$ 555.44 remaining to be paid).

Attorney Fees: \$ 12,575.50 (\$ 4,607 remaining to be paid).
Attorney Costs: \$ 191.90 (\$ 83.06 remaining to be paid).
Other Attorney Expenses: in the reduced amount of \$ 0.

Accountant Fees: in the reduced amount of \$ 19,416 (\$ 5,940.50 remaining to be paid).
Accountant Costs: \$ 266.72 (\$ 47.56 remaining to be paid).

U.S. Bankruptcy Courts: \$ 350.

Solomon, Ward, Seidenwurm & Smith, L.L.P.: \$10,374.30 (\$ 0 remaining to be paid).

APPEARANCES REQUIRED, or Movant (Trustee, Attorney for Trustee, or Accountant for Trustee) may not appear and be deemed to consent to their reduced fees.

Party Information

Debtor(s):

Jeffrey Steven Dean

Represented By
Bryant C MacDonald

**United States Bankruptcy Court
Central District of California
Riverside
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11:00 AM

CONT... Jeffrey Steven Dean

Chapter 7

Trustee(s):

Christopher R Barclay (TR)

Represented By
Yosina M Lissebeck
Michael D Breslauer

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, May 29, 2019

Hearing Room 303

11:00 AM

6:15-21418 James Lloyd Walker

Chapter 7

#2.00 Motion To Stay Pending Appeal

EH__

Docket 176

Tentative Ruling:

The only unsecured creditors remaining of the estate are the Trustee and his professionals, and the funds received from selling the Property in question will be used to settle the administrative claims.

Debtor does not object to the motion for turnover in this motion, and the matter of whether Trustee had the legal right to force turnover of the Property to the estate is neither on appeal, nor it is in controversy. Rather, Debtor's argument is founded on the belief that their appeal of Counsel's fees will either negate, or reduce, the administrative to the point that Debtor could pay off the claims and stop the sale of the property.

Appeal in a bankruptcy case does not automatically remove jurisdiction from the Bankruptcy court, rather, the court has the discretion to choose whether to suspend or continue the other proceedings in the case or issue any other appropriate orders. Federal Rule of Bankruptcy Procedure 8007(e). The decision to stay proceedings is analyzed along similar grounds as an injunction, requiring the Court to analyze whether:

- 1) Whether movant will suffer an irreparable injury absent a stay;
- 2) Whether a non-moving party will suffer substantial injury if a stay is issued;
- 3) Whether the movant has demonstrated a substantial possibility of success on appeal;
- 4) Whether there are public interests that may be affected.

Temporary loss of income does not usually constitute irreparable harm. *Sampson v. Murray*, 415 U.S. 61, 90 (1974). Loss of real property is not irreparable harm if it is being used as rental property. *See, e.g. Kinman v. Wells Fargo Bank, N.A.*, 2012 U.S. Dist. LEXIS 174197 at *5 fn. 2 (E.D. Cal. 2012). As admitted by Counsel for

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CONT... **James Lloyd Walker**

Chapter 7

Debtor's declaration in their September 14, 2018 response to Trustee's motion for turnover, Property in question is being rented out by Debtor and is not his home, meaning that, absent special circumstances, its loss would not constitute irreparable harm. Debtor has not shown these circumstances.

The non-moving parties holding administrative claims against Debtor's estate will not suffer substantial injury if a stay is issued.

There are no public interests in question, barring the general desire for speedy resolution of judicial processes.

Movant has not shown a substantial possibility of success on appeal. First and foremost, Debtor never opposed Counsel's interim fee application, meaning that they have likely waived any arguments against the application on appeal. Secondly, to return to Counsel for Debtor's declaration in response to the motion for turnover, Debtor's position against the amount of the administrative fees appears to stem from Debtor's "misunderstanding of how bankruptcy works—although I have tried to explain it to him." In fact, a large amount of the fees incurred by Trustee in this case was caused by Debtor's failure to list his property in his petition, and opposition to even routine matters such as Trustee's motion to employ Counsel.

In addition, Counsel's fee application was an interim fee application, rendering Debtor's appeal an interlocutory appeal. *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Secs. LLC (In re Madoff)*, 2010 U.S. Dist. LEXIS 81492 at *8 (S.D. N.Y. 2010). Thus, to show success on appeal Debtor must also show that the Bankruptcy Appellate Panel is likely to even hear the appeal. There are two key factors considered when determining whether to allow appeal of an interlocutory order:

- 1) Whether the issue involves a controlling question of law as to which there is substantial ground for difference of opinion;
- 2) Whether the immediate appeal from the order may materially advance the termination of the litigation. *See* 28 U.S.C. § 1292(b).

Despite the wording of Debtor's notice of appeal, the question on appeal is a purely factual one, whether or not Counsel's fees were excessive. As such, it does not concern a controlling question of law as to which there is substantial ground for difference of opinion, and it is unlikely that the Bankruptcy Appellate Court will grant leave to appeal.

To summarize, Debtor has shown neither irreparable harm, nor substantial possibility

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Wednesday, May 29, 2019

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11:00 AM

CONT... **James Lloyd Walker**
of success on appeal.

Chapter 7

TENTATIVE RULING

5/29/2019

Service: Proper

Opposition: Yes

The Court is inclined to DENY Debtor's motion for a stay pending appeal.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth
William J Smyth

Movant(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth
William J Smyth

Trustee(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

**United States Bankruptcy Court
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Courtroom 303 Calendar**

Wednesday, May 29, 2019

Hearing Room 303

11:00 AM

6:19-13267 Hallie Eubanks

Chapter 7

#3.00 Motion of Violation of Stay

EH__

Docket 16

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hallie Eubanks Pro Se

Movant(s):

Hallie Eubanks Pro Se

Trustee(s):

Larry D Simons (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 29, 2019

Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#4.00 CONT Motion for Objection to Claim of Exemptions by Debtor, Julie Lynn Salazar
(HOLDING DATE)

From: 1/16/19, 1/30/19, 4/10/19

Also #5 & #6

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
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Wednesday, May 29, 2019

Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#5.00 CONT Application to Employ BHHS Perrie Mundy Realty Group as Real Estate Broker / Agent Declaration of Perrie Mundy in support
(HOLDING DATE)

From: 1/30/19, 4/10/19

Also #4 & #6

EH__

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Wednesday, May 29, 2019

Hearing Room 303

1:00 PM

6:18-17177 Julie Lynn Salazar

Chapter 7

#6.00 CONT Motion by Chapter 7 Trustee for Order Approving Equity Buy Back Agreement
(HOLDING DATE)

From: 12/5/18, 1/30/19, 4/10/19

Also #4 & #5

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
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Wednesday, May 29, 2019

Hearing Room 303

2:00 PM

6:11-42675 Daniel Norman Bailey

Chapter 7

Adv#: 6:19-01056 Hanford Development Properties LLC, Central Valley v. Bailey et al

#7.00 Motion to Dismiss Untimely Complaint for Determination of Nondischargeability of Debts and for Objection to Discharge; Pursuant to F.R.B.P. § 4004(a) & F.R.B.P. 4007(c); F.R.C.P. § 9(b) & F.R.C.P. § 12(b)(6); F.R.B.P. § 7009 & F.R.B.P. § 7012

Also #8 & #9

EH__

Docket 5

Tentative Ruling:

Federal Rule of Civil Procedure 41 applies in adversarial proceedings, as incorporated by Federal Rule of Bankruptcy Procedure 7041. FRCP 41(a)(1)(a)(i) permits a plaintiff to voluntarily dismiss an action without Court order through notice of dismissal, as long as it is before the opposing party served an answer, or a motion for summary judgment.

The Defendants have filed a motion for dismissal in this case, on April 17. The question of whether to treat a motion to dismiss, which contains materials extraneous to the complaint, as a motion for summary judgment is within the discretion of the Court. *Swedberg v. Marotzke*, 339 F.3d 1139, 1146 (9th Cir. 2003). Treating the motion to dismiss as a motion for summary judgment in effect is a conversion of the motion by the Court, ideally by Court order, and occurs when the Court decides to consider the materials extraneous to what was in Plaintiff's complaint, when deciding how to rule on the motion to dismiss. *Id.* Dismissal of the case through notice of voluntary dismissal is a closure of the entire action, with the Court losing all jurisdiction over the matter besides issuing sanctions orders. *Commercial Space Management Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir., 1999).

The position of Plaintiff is that this entire case has been closed by their notice of voluntary dismissal of the action on May 10, under FRCP 41(a)(1)(A)(i), as no answer or motion for summary judgment had been filed by Defendant.

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2:00 PM

CONT... Daniel Norman Bailey

Chapter 7

Defendants take the position that the notice for dismissal filed here required a Court order under FRCP 41(a)(2) because they had filed a counterclaim in the matter. This is incorrect, because FRCP 41(a)(2) says, *except as provided for* in rule 41(a)(1), an action may be dismissed at a plaintiff's request only by court order, on terms the court considers proper. It continues to say that, if a defendant has pleaded a counterclaim prior to plaintiff's motion to dismiss, the action may only be dismissed over defendant's objection if the counterclaim can remain pending for independent adjudication. In this case, the motion for contempt for violation of the discharge injunction can be pending for independent adjudication. However, even if this wasn't the case, if Plaintiff's motion falls under FRCP 41(a)(1), then it trumps any provisions under (a)(2).

Defendants attach extraneous materials to their motion to dismiss, and those materials are critical for making a determination on the motion to dismiss. The Court thus has the discretion to convert the motion to dismiss into a motion for summary judgment under *Swedberg*. See *Swedberg*, 339 F.3d at 1146. If the Court does so, then Plaintiff's notice of voluntary dismissal is no longer effective, as the motion to dismiss dated April 17 would be considered to be a motion for summary judgment filed prior to May 10, 2019 (the date of Creditor's notice of dismissal), and thereby canceling out Creditor's right to voluntarily dismiss the action under FRCP 41(a)(1)(A)(i).

The Court will not exercise its discretion to convert a motion to dismiss into a motion for summary judgment, because Defendants will still maintain their claim for violation of the discharge injunction via motion pending in the main case, set for hearing June 26, 2019. Thus, Plaintiff's voluntary dismissal under FRCP 41(a)(1)(A)(i) remains in effect.

As such, the Court, finding the action dismissed when Plaintiff filed its notice of voluntary dismissal on May 10, 2019, is inclined to hold that the motion to dismiss the complaint and the motion for violation of the discharge injunction are both denied as moot.

TENTATIVE RULING

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

CONT... Daniel Norman Bailey

Chapter 7

5/29/2019

Service: Proper

Opposition: Yes

The Court is inclined to DENY Debtor's motion to dismiss as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Defendant(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Marlene Yvette Bailey

Represented By
Baruch C Cohen

Joint Debtor(s):

Marlene Yvette Bailey

Represented By
Baruch C Cohen

Movant(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Marlene Yvette Bailey

Represented By
Baruch C Cohen

Plaintiff(s):

Hanford Development Properties

Represented By
John W Cutchin

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Hearing Room 303

2:00 PM

CONT... Daniel Norman Bailey

Chapter 7

Trustee(s):

Charles W Daff (TR)

Represented By
Charles W Daff (TR)

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, May 29, 2019

Hearing Room 303

2:00 PM

6:11-42675 Daniel Norman Bailey

Chapter 7

Adv#: 6:19-01056 Hanford Development Properties LLC, Central Valley v. Bailey et al

#8.00 Motion For Contempt Violation of Discharge Injunction 11 U.S.C. § 524(A)(2)

Also #7 & #9

EH__

Docket 4

*** VACATED ***

Tentative Ruling:

Federal Rule of Civil Procedure 41 applies in adversarial proceedings, as incorporated by Federal Rule of Bankruptcy Procedure 7041. FRCP 41(a)(1)(a)(i) permits a plaintiff to voluntarily dismiss an action without Court order through notice of dismissal, as long as it is before the opposing party served an answer, or a motion for summary judgment.

The Defendants have filed a motion for dismissal in this case, on April 17. The question of whether to treat a motion to dismiss, which contains materials extraneous to the complaint, as a motion for summary judgment is within the discretion of the Court. *Swedberg v. Marotzke*, 339 F.3d 1139, 1146 (9th Cir. 2003). Treating the motion to dismiss as a motion for summary judgment in effect is a conversion of the motion by the Court, ideally by Court order, and occurs when the Court decides to consider the materials extraneous to what was in Plaintiff's complaint, when deciding how to rule on the motion to dismiss. *Id.* Dismissal of the case through notice of voluntary dismissal is a closure of the entire action, with the Court losing all jurisdiction over the matter besides issuing sanctions orders. *Commercial Space Management Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir., 1999).

The position of Plaintiffs is that this entire case has been closed by their notice of voluntary dismissal of the action on May 10, under FRCP 41(a)(1)(A)(i), as no answer or motion for summary judgment had been filed by Defendant.

Debtors take the position that the notice for dismissal here required Court order under FRCP 41(a)(2) as they had filed a counterclaim in the matter. This is incorrect,

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CONT...

Daniel Norman Bailey

Chapter 7

because FRCP 41(a)(2) says, *except as provided for* in rule 41(a)(1), an action may be dismissed at a plaintiff's request only by court order, on terms the court considers proper. It continues to say that, if a defendant has pleaded a counterclaim prior to plaintiff's motion to dismiss, the action may only be dismissed over defendant's objection if the counterclaim can remain pending for independent adjudication. In this case, the motion for contempt for violation of the discharge injunction can be pending for independent adjudication. However, even if this wasn't the case, if Creditor's motion falls under FRCP 41(a)(1), then it trumps any provisions under (a)(2).

Debtors attached extraneous materials to their motion to dismiss, and those materials are critical for making a determination on the motion to dismiss. The Court thus has the discretion to convert the motion to dismiss into a motion for summary judgment under *Swedberg*. See *Swedberg*, 339 F.3d at 1146. If the Court does so, then Creditor's notice of voluntary dismissal is no longer effective, as the motion to dismiss dated April 17 is considered to be a motion for summary judgment which was filed prior to May 10, 2019 (the date of Creditor's notice of dismissal), canceling out Creditor's right to voluntarily dismiss the action under FRCP 41(a)(1)(A)(i).

Given the fact that this matter has been set for hearing on June 26, 2019 in the main bankruptcy case, the Court will not exercise its discretion to convert a motion to dismiss into a motion for summary judgment. In doing so, it will not force this adversarial case to remain open against the wishes of the Creditor who opened it.

As such, the Court finds that it lost any jurisdiction to hear matters in this case barring motions for sanction when Creditor filed their notice of voluntary dismissal on May 10, 2019. The motions to dismiss the complaint, as well as the motion for violation of the discharge injunction, filed in this adversarial process have thus both been rendered moot.

TENTATIVE RULING

5/29/2019

Service: Proper

Opposition: Yes

The Court is inclined to DENY Debtor's motion for contempt due to violation of the

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CONT... **Daniel Norman Bailey**
discharge injunction as MOOT.

Chapter 7

APPEARANCES REQUIRED.

Federal Rule of Civil Procedure 41 applies in adversarial proceedings, as incorporated by Federal Rule of Bankruptcy Procedure 7041. FRCP 41(a)(1)(a)(i) permits a plaintiff to voluntarily dismiss an action without Court order through notice of dismissal, as long as it is before the opposing party served an answer, or a motion for summary judgment.

The Defendants have filed a motion for dismissal in this case, on April 17. The question of whether to treat a motion to dismiss, which contains materials extraneous to the complaint, as a motion for summary judgment is within the discretion of the Court. *Swedberg v. Marotzke*, 339 F.3d 1139, 1146 (9th Cir. 2003). Treating the motion to dismiss as a motion for summary judgment in effect is a conversion of the motion by the Court, ideally by Court order, and occurs when the Court decides to consider the materials extraneous to what was in Plaintiff's complaint, when deciding how to rule on the motion to dismiss. *Id.* Dismissal of the case through notice of voluntary dismissal is a closure of the entire action, with the Court losing all jurisdiction over the matter besides issuing sanctions orders. *Commercial Space Management Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir., 1999).

The position of Plaintiff is that this entire case has been closed by their notice of voluntary dismissal of the action on May 10, under FRCP 41(a)(1)(A)(i), as no answer or motion for summary judgment had been filed by Defendant.

Defendants take the position that the notice for dismissal filed here required a Court order under FRCP 41(a)(2) because they had filed a counterclaim in the matter. This is incorrect, because FRCP 41(a)(2) says, *except as provided for* in rule 41(a)(1), an action may be dismissed at a plaintiff's request only by court order, on terms the court considers proper. It continues to say that, if a defendant has pleaded a counterclaim prior to plaintiff's motion to dismiss, the action may only be dismissed over defendant's objection if the counterclaim can remain pending for independent adjudication. In this case, the motion for contempt for violation of the discharge injunction can be pending for independent adjudication. However, even if this wasn't the case, if Plaintiff's motion falls under FRCP 41(a)(1), then it trumps any provisions under (a)(2).

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

Chapter 7

Defendants attach extraneous materials to their motion to dismiss, and those materials are critical for making a determination on the motion to dismiss. The Court thus has the discretion to convert the motion to dismiss into a motion for summary judgment under *Swedberg*. See *Swedberg*, 339 F.3d at 1146. If the Court does so, then Plaintiff's notice of voluntary dismissal is no longer effective, as the motion to dismiss dated April 17 would be considered to be a motion for summary judgment filed prior to May 10, 2019 (the date of Creditor's notice of dismissal), and thereby canceling out Creditor's right to voluntarily dismiss the action under FRCP 41(a)(1)(A)(i).

The Court will not exercise its discretion to convert a motion to dismiss into a motion for summary judgment, because Defendants will still maintain their claim for violation of the discharge injunction via motion pending in the main case, set for hearing June 26, 2019. Thus, Plaintiff's voluntary dismissal under FRCP 41(a)(1)(A)(i) remains in effect.

As such, the Court, finding the action dismissed when Plaintiff filed its notice of voluntary dismissal on May 10, 2019, is inclined to hold that the motion to dismiss the complaint and the motion for contempt for violation of the discharge injunction are both denied as moot.

TENTATIVE RULING

5/29/2019

Service: Proper

Opposition: Yes

The Court is inclined to DENY Debtor's motion for contempt for violati

APPEARANCES REQUIRED.

Federal Rule of Civil Procedure 41 applies in adversarial proceedings, as incorporated by Federal Rule of Bankruptcy Procedure 7041. FRCP 41(a)(1)(a)(i) permits a plaintiff to voluntarily dismiss an action without Court order through notice of dismissal, as long as it is before the opposing party served an answer, or a motion for summary judgment.

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

Chapter 7

The Defendants have filed a motion for dismissal in this case, on April 17. The question of whether to treat a motion to dismiss, which contains materials extraneous to the complaint, as a motion for summary judgment is within the discretion of the Court. *Swedberg v. Marotzke*, 339 F.3d 1139, 1146 (9th Cir. 2003). Treating the motion to dismiss as a motion for summary judgment in effect is a conversion of the motion by the Court, ideally by Court order, and occurs when the Court decides to consider the materials extraneous to what was in Plaintiff's complaint, when deciding how to rule on the motion to dismiss. *Id.* Dismissal of the case through notice of voluntary dismissal is a closure of the entire action, with the Court losing all jurisdiction over the matter besides issuing sanctions orders. *Commercial Space Management Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir., 1999).

The position of Plaintiff is that this entire case has been closed by their notice of voluntary dismissal of the action on May 10, under FRCP 41(a)(1)(A)(i), as no answer or motion for summary judgment had been filed by Defendant.

Defendants take the position that the notice for dismissal filed here required a Court order under FRCP 41(a)(2) because they had filed a counterclaim in the matter. This is incorrect, because FRCP 41(a)(2) says, *except as provided for* in rule 41(a)(1), an action may be dismissed at a plaintiff's request only by court order, on terms the court considers proper. It continues to say that, if a defendant has pleaded a counterclaim prior to plaintiff's motion to dismiss, the action may only be dismissed over defendant's objection if the counterclaim can remain pending for independent adjudication. In this case, the motion for contempt for violation of the discharge injunction can be pending for independent adjudication. However, even if this wasn't the case, if Plaintiff's motion falls under FRCP 41(a)(1), then it trumps any provisions under (a)(2).

Defendants attach extraneous materials to their motion to dismiss, and those materials are critical for making a determination on the motion to dismiss. The Court thus has the discretion to convert the motion to dismiss into a motion for summary judgment under *Swedberg*. See *Swedberg*, 339 F.3d at 1146. If the Court does so, then Plaintiff's notice of voluntary dismissal is no longer effective, as the motion to dismiss dated April 17 would be considered to be a motion for summary judgment filed prior to May 10, 2019 (the date of Creditor's notice of dismissal), and thereby

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CONT... Daniel Norman Bailey Chapter 7

canceling out Creditor's right to voluntarily dismiss the action under FRCP 41(a)(1)(A)(i).

The Court will not exercise its discretion to convert a motion to dismiss into a motion for summary judgment, because Defendants will still maintain their claim for violation of the discharge injunction via motion pending in the main case, set for hearing June 26, 2019. Thus, Plaintiff's voluntary dismissal under FRCP 41(a)(1)(A)(i) remains in effect.

As such, the Court, finding the action dismissed when Plaintiff filed its notice of voluntary dismissal on May 10, 2019, is inclined to hold that the motion to dismiss the complaint and the motion for contempt for violation of the discharge injunction are both denied as moot.

TENTATIVE RULING

5/29/2019

Service: Proper

Opposition: Yes

The Court is inclined to DENY Debtor's motion for contempt for violation of the discharge injunction as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Defendant(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Marlene Yvette Bailey

Represented By
Baruch C Cohen

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

Chapter 7

Joint Debtor(s):

Marlene Yvette Bailey

Represented By
Baruch C Cohen

Movant(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Marlene Yvette Bailey

Represented By
Baruch C Cohen

Plaintiff(s):

Hanford Development Properties

Represented By
John W Cutchin

Trustee(s):

Charles W Daff (TR)

Represented By
Charles W Daff (TR)

**United States Bankruptcy Court
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6:11-42675 Daniel Norman Bailey

Chapter 7

Adv#: 6:19-01056 Hanford Development Properties LLC, Central Valley v. Bailey et al

#9.00 Status Conference RE: [1] Adversary case 6:19-ap-01056. Complaint by Hanford Development Properties LLC, Central Valley Holding Company, LLC, Daniel Norman Bailey against Daniel Norman Bailey, Marlene Yvette Bailey. 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)),(65 (Dischargeability - other)) (Cutchin, John)

Also #7 & #8

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Defendant(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Marlene Yvette Bailey

Represented By
Baruch C Cohen

Joint Debtor(s):

Marlene Yvette Bailey

Represented By
Baruch C Cohen

**United States Bankruptcy Court
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CONT... Daniel Norman Bailey

Chapter 7

Plaintiff(s):

Hanford Development Properties

Represented By
John W Cutchin

Trustee(s):

Charles W Daff (TR)

Represented By
Charles W Daff (TR)

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, May 29, 2019

Hearing Room 303

2:00 PM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat
Adv#: 6:15-01303 Cisneros v. AMERICAN EXPRESS

Chapter 7

#10.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01303. Complaint by A. Cisneros against AMERICAN EXPRESS. (Charge To Estate \$350). For Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))

From: 12/30/15, 1/13/16, 3/23/16, 5/25/16, 6/29/16, 8/31/16, 11/2/16, 2/1/17, 5/3/17 9/13/17, 12/13/17, 2/14/18, 5/16/18, 6/11/18, 8/22/18, 11/28/18, 2/27/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 8/28/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

AMERICAN EXPRESS

Represented By
Robert S Lampl
Chad V Haes

Plaintiff(s):

A. Cisneros

Represented By
D Edward Hays
Chad V Haes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, May 29, 2019

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2:00 PM

CONT... Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
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Wednesday, May 29, 2019

Hearing Room 303

2:00 PM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Adv#: 6:15-01308 Cisneros v. BWI CONSULTING, LLC et al

#11.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01308. Complaint by A. Cisneros against BWI CONSULTING, LLC, Black and White, Inc., BLACK AND WHITE BILLING COMPANY, BLACK AND WHITE INK, MEHRAN DEVELOPMENT CORPORATION. (Charge To Estate \$350). for Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other))

From: 1/13/16, 3/23/16, 5/25/16, 7/27/16, 8/31/16, 11/2/16, 2/1/17, 5/3/17, 9/13/17, 12/13/17, 2/14/18, 5/16/18, 6/11/18, 8/22/18, 11/28/18, 2/27/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 8/28/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

BWI CONSULTING, LLC	Pro Se
Black and White, Inc.	Pro Se
BLACK AND WHITE BILLING	Pro Se
BLACK AND WHITE INK	Pro Se
MEHRAN DEVELOPMENT	Pro Se

**United States Bankruptcy Court
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2:00 PM

CONT... Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Plaintiff(s):

A. Cisneros

Represented By
D Edward Hays
Chad V Haes

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, May 29, 2019

Hearing Room 303

2:00 PM

6:13-30133 Nabeel Slaieh

Chapter 7

Adv#: 6:14-01081 Albrecht v. Slaieh

#12.00 CONT Status Conference RE: [1] Adversary case 6:14-ap-01081. Complaint by W.E. Jon Albrecht against Nabeel Slaieh. willful and malicious injury))

From: 4/17/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nabeel Slaieh

Represented By
George A Saba - INACTIVE -

Defendant(s):

Nabeel Slaieh

Represented By
Stephen B Mashney
Bruce A Boice

Plaintiff(s):

W E Jon Albrecht

Represented By
William L Miltner
Robert C Harvey

Trustee(s):

Larry D Simons (TR)

Represented By
D Edward Hays
David Wood
Matthew Grimshaw

**United States Bankruptcy Court
Central District of California
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Wednesday, May 29, 2019

Hearing Room 303

2:00 PM

6:18-12440 Paul Pound

Chapter 7

Adv#: 6:18-01147 Lloyd v. Pound

#13.00 CONT Status Conference RE: Complaint by April Lloyd against Paul M Pound. 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

From: 9/5/18, 11/14/18, 12/5/18, 1/16/19, 2/6/19, 3/27/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 8/28/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Pound

Represented By
Todd L Turoci

Defendant(s):

Paul M Pound

Represented By
Todd L Turoci

Plaintiff(s):

April Lloyd

Represented By
Chane Buck

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, May 29, 2019

Hearing Room 303

2:00 PM

6:09-37495 Sultan Fakhoury

Chapter 7

Adv#: 6:19-01067 Fakhoury et al v. HAZMAT TSDf INC.

#14.00 CONT Motion for Enforcement of Bankruptcy Discharge Injunction and to Quiet Title

From: 5/22/19

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sultan Fakhoury

Represented By
Gary Swanson

Defendant(s):

HAZMAT TSDf INC.

Pro Se

Joint Debtor(s):

Catherine M Fakhoury

Represented By
Gary Swanson

Plaintiff(s):

Sultan Fakhoury

Represented By
Albert W Marchetti

Catherine M Fakhoury

Represented By
Albert W Marchetti

Trustee(s):

Patricia J Zimmermann (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, May 30, 2019

Hearing Room 303

11:00 AM

6:18-20737 Alfredo N Adriano

Chapter 13

#1.00 Motion to Reconsider Dismissal of Case RE: 180-Day Bar to Refiling

EH__

Docket 26

Party Information

Debtor(s):

Alfredo N Adriano

Represented By
Christopher J Langley

Movant(s):

Alfredo N Adriano

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, May 30, 2019

Hearing Room 303

11:00 AM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#2.00 CONT Hearing re Summary Judgment - Motion to Dismiss Adversary Proceeding (6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 2 Declaration of Nathan R. Klein in Support of Defendants Tyler & Bursch, LLP and Jennifer L. Bursch's Fed. R. Civ. P. 12(B)(6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 3 Declaration of Jennifer L. Bursch in Support of Defendants Tyler & Bursch, LLP and Jennifer L. Bursch's Fed. R. Civ. P. 12(B)(6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 4 Compendium of Exhibits in Support of Defendants Tyler & Bursch, LLP and Jennifer L. Bursch's Fed. R. Civ. P. 12(B)(6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 5 Declaration of Service) (Tyler, Robert)
(MOTION TO DISMISS CONVERTED TO MOTION FOR SUMMARY JUDGMENT)

From: 11/29/18, 3/13/19

Also #3 & #4

EH__

Docket 5

Party Information

Debtor(s):

Donna Roberto

Pro Se

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 30, 2019

Hearing Room 303

11:00 AM

CONT... Donna Roberto

Chapter 13

Movant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Plaintiff(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, May 30, 2019

Hearing Room 303

11:00 AM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#3.00 CONT Status Conference RE: [10] Counterclaim by Tyler & Bursch, LLP against Tyler & Bursch, LLP (Attachments: # 1 Exhibit Letter Dated 3/17/17 # 2 Exhibit Letter Dated 4/14/17) (Tyler, Robert)

From: 3/13/19

Also #2 & #4

EH__

Docket 10

Party Information

Debtor(s):

Donna Roberto

Pro Se

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

Plaintiff(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, May 30, 2019

Hearing Room 303

11:00 AM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#4.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01186 Complaint by Donna Roberto against Tyler & Bursch, LLP, Jennifer Bursch. (Fee Not Required). Nature of Suit: (91 (Declaratory judgment)),(21 (Validity, priority or extent of lien or other interest in property)),(12 (Recovery of money/property - 547 preference)

From: 11/29/18, 3/13/19

Also #2 & #3

EH ____

Docket 1

Party Information

Debtor(s):

Donna Roberto

Pro Se

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

Plaintiff(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, May 30, 2019

Hearing Room 303

11:00 AM

6:17-10082 Francisco R Palacios

Chapter 13

#5.00 Trustee's Motion to Dismiss Case

EH__

Docket 193

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/28/19

Party Information

Debtor(s):

Francisco R Palacios

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 30, 2019

Hearing Room 303

11:00 AM

6:19-12090 Gilbert Soto and Nancy Soto

Chapter 13

#6.00 CONT Confirmation of Chapter 13 Plan

From: 5/23/19

EH __

Docket 2

Party Information

Debtor(s):

Gilbert Soto

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Nancy Soto

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, May 30, 2019

Hearing Room 303

11:00 AM

6:19-10445 Abidan Aceves and Cindy Aceves

Chapter 13

#7.00 CONT Confirmation of Chapter 13 Plan

From: 3/28/19, 4/25/19; 5/23/19

EH __

Docket 2

Party Information

Debtor(s):

Abidan Aceves

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Cindy Aceves

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, June 3, 2019

Hearing Room 303

9:30 AM

6:18-20003 LC Stahl LLC

Chapter 11

#1.00 CONT for Evidentiary Hearing re Motion for Relief from Stay Automatic Stay Under 11 U.S.C. Section 362 (with supporting declarations) (Real Property)

MOVANT: LOAN FUNDER LLC, SERIES 1829

From: 2/26/19, 3/5/19, 4/10/19, 5/7/19

EH__

Docket 52

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

Movant(s):

Loan Funder LLC, Series 1829

Represented By
Jeffrey N Brown

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:15-19432 Kirk Eugene Frantz and Mary Elizabeth Frantz

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 152079 Rio Vista Road, Big River, CA 92242

MOVANT: BAYVIEW LOAN SERVICING LLC

From: 5/28/19

EH__

Docket 155

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Eugene Frantz

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Mary Elizabeth Frantz

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney
Edward G Schloss

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:17-10742 William Fuentes and Martha C Orozco de Fuentes

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 867 South Ironwood Avenue, Rialto (Bloomington Area), CA 92316 .

MOVANT: LAKEVIEW LOAN SERVICING LLC

From: 5/21/19

EH__

Docket 47

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request for termination of the 11 U.S.C. § 1301(a) co-debtor stay. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

William Fuentes

Represented By
Marlin Branstetter

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... William Fuentes and Martha C Orozco de Fuentes

Chapter 13

Joint Debtor(s):

Martha C Orozco de Fuentes

Represented By
Marlin Branstetter

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:17-16227 Shawn L. Johnson

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6583 Kunzite Court, Mira Loma, CA 91752

MOVANT: U.S. BANK NATIONAL ASSOCIATION

From: 5/21/19

EH__

Docket 49

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request for termination of the 11 U.S.C. § 1301(a) co-debtor stay. GRANT relief from Rule 4001 stay. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... Shawn L. Johnson

Chapter 13

Debtor(s):

Shawn L. Johnson

Represented By
Mark S Martinez

Movant(s):

U.S. Bank National Association, as

Represented By
Nancy L Lee
Darren J Devlin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:18-10732 Calvin S. Winn and Diana M. Winn

Chapter 13

#4.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13300 February Dr, Corona, CA 92879

MOVANT: NATIONSTAR MORTGAGE LLC

From: 5/7/19

EH__

Docket 53

Tentative Ruling:

5/7/2019

Service is Proper
Opposition: Yes

Movant to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Calvin S. Winn

Represented By
Christopher J Langley

Joint Debtor(s):

Diana M. Winn

Represented By
Christopher J Langley

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... Calvin S. Winn and Diana M. Winn

Chapter 13

Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:18-12549 Billy Wayne Shipman, Jr. and Andrea Shipman

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Honda Accord, VIN: 1HGCR3F89DA014059

MOVANT: FIRST INVESTORS FINANCIAL SERVICES

EH__

Docket 25

Tentative Ruling:

Tentative Ruling:

6/4/2019

Service is Proper.
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Billy Wayne Shipman Jr.

Represented By
Andrew Nguyen

Joint Debtor(s):

Andrea Shipman

Represented By
Andrew Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... Billy Wayne Shipman, Jr. and Andrea Shipman

Chapter 13

Movant(s):

First Investors Financial Services

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:18-12822 Cynthia Miller

Chapter 13

#6.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15036 Daffodil Circle, Fontana, CA 92336

MOVANT: WELLS FARGO BANK, N.A.

From: 3/26/19, 4/16/19, 5/7/19

EH__

Docket 42

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: Late

Parties to apprise Court of status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Cynthia Miller

Represented By
Richard L Barrett

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:18-20644 Terry E Crossley and Janell Crossley

Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1428 North San Diego Place, Ontario, CA 91764

MOVANT: EAI CAPITAL LLC

EH__

Docket 38

Tentative Ruling:

Tentative Ruling:

6/4/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the asserted cure of the post-petition arrears and the negotiations regarding an adequate protection agreement.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Terry E Crossley

Represented By
Christopher J Langley

Joint Debtor(s):

Janell Crossley

Represented By
Christopher J Langley

Movant(s):

EAI CAPITAL LLC

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... Terry E Crossley and Janell Crossley

Chapter 13

Julian K Bach

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:19-10453 James Ellsworth Fay and Betty Wing Crosbie

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2005 Fleetwood Southwind M-32VS

MOVANT: LBS FINANCIAL CREDIT UNION

EH__

Docket 25

Tentative Ruling:

Tentative Ruling:

6/4/2019

Service is Improper (due to error in Notice).
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

James Ellsworth Fay

Represented By
Nicholas M Wajda

Joint Debtor(s):

Betty Wing Crosbie

Represented By
Nicholas M Wajda

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... James Ellsworth Fay and Betty Wing Crosbie

Chapter 13

Movant(s):

LBS Financial Credit Union

Represented By
Karel G Rocha

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:19-11549 Olivia M Jauregui

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Jeep Cherokee Limited Sport Utility 4D

MOVANT: EDUCATIONAL EMPLOYEES CREDIT UNION

EH__

Docket 11

Tentative Ruling:

Tentative Ruling:

6/4/2019

Service is Proper.
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for confirmation that no stay is in effect for lack of cause shown.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Olivia M Jauregui

Represented By
Paul Y Lee

Movant(s):

Educational Employees Credit

Represented By
Don J Pool

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... Olivia M Jauregui

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:19-13184 Estela Torres

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Chevrolet Malibu, VIN: 1G1ZD5ST6JF108386

MOVANT: TD AUTO FINANCE LLC

EH__

Docket 9

Tentative Ruling:

Tentative Ruling:

6/4/2019

Service is Proper.
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Estela Torres

Pro Se

Movant(s):

TD Auto Finance LLC

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... Estela Torres

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:19-13331 Amie L Pannazzo

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1415 Via Vallarta, Riverside, CA 92506

MOVANT: JOSEPH C. MCCOY AND PAMELA J. MCCOY

EH__

Docket 26

Tentative Ruling:

Tentative Ruling:

6/4/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Amie L Pannazzo

Represented By
Qais Zafari

Movant(s):

Joseph McCoy

Represented By
Lazaro E Fernandez

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... Amie L Pannazzo

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:19-13345 Jamie E Wendt

Chapter 7

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Ram Ram 1500, VIN 1C6RR7FTJS186553

MOVANT: SANTANDER CONSUMER USA

EH__

Docket 10

Tentative Ruling:

Tentative Ruling:

6/4/2019

Service is Proper.
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jamie E Wendt

Represented By
Paul Y Lee

Movant(s):

Santander Consumer USA Inc dba

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... Jamie E Wendt

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:19-14325 Martin Ontiveros

Chapter 13

#13.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 39628 Garin Drive, Murrieta, CA 92562

MOVANT: MARTIN ONTIVEROS

EH ____

Docket 8

Tentative Ruling:

TENTATIVE RULING:

6/4/2019

Service: Proper
Opposition: None

Debtor has not presented clear and convincing evidence to rebut the presumption that this case was not filed in good faith. Specifically, the motion lacks detailed evidence regarding the change in personal financial circumstances. The Court is inclined to DENY Movant's request for an imposition of the automatic stay.

APPEARANCES REQUIRED. Debtor's attorney Allan Cate to personally appear.

Party Information

Debtor(s):

Martin Ontiveros

Represented By
Allan O Cate

Movant(s):

Martin Ontiveros

Represented By
Allan O Cate

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... Martin Ontiveros

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

6:19-14403 Jacqueline Mason McDuffy

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 2569 Union Street aka West Union Street San Bernardino, CA 92410

MOVANT: BRECKENRIDGE PROPERTY FUND 2016, LLC

EH ____

Docket 4

Tentative Ruling:

Tentative Ruling:

6/4/2019

Service is Proper
Opposition: None (shortened notice)

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and obtain the property. GRANT relief from Rule 4001 stay. Based on multiple bankruptcy filings affecting the Property, GRANT request that the order is binding and effective in any bankruptcy case commenced by or against any debtor who claims any interest in the Property for a period of 180 days from the hearing of this motion upon recordation of the order. DENY request under ¶ 13 for lack of cause shown.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jacqueline Mason McDuffy

Pro Se

Movant(s):

Breckenridge Property Fund 2016,

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

10:00 AM

CONT... Jacqueline Mason McDuffy

Sam Chandra

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

Adv#: 6:18-01094 Boyd v. U.S. BANK et al

#15.00 Motion for Stay of Order Pending Appeal

EH__

Docket 53

Tentative Ruling:

BACKGROUND

Markus Boyd ("Debtor") filed his chapter 11 petition on January 26, 2018. He filed the adversarial proceeding on April 21, 2018. The adversarial proceeding concerns Debtor's objection to First Franklyn Mortgage's ("Creditor") second mortgage against Debtor's home at 5522 Deer Creek Lane, Rancho Cucamonga, CA 91737-2424 (the "Property"). Debtor's objection to the mortgage are based on novel legal arguments.

DISCUSSION

Appeal in a bankruptcy case does not automatically remove jurisdiction from the Bankruptcy court, rather, the court has the discretion to choose whether to suspend or continue the other proceedings in the case or issue any other appropriate orders. Federal Rule of Bankruptcy Procedure 8007(e). The decision to stay proceedings is analyzed along similar grounds as an injunction, requiring the Court to balance whether:

- 1) Whether movant will suffer an irreparable injury absent a stay;
- 2) Whether a non-moving party will suffer substantial injury if a stay is issued;
- 3) Whether the movant has demonstrated a substantial possibility of success on appeal;
- 4) Whether there are public interests that may be affected.

Debtor states that he will suffer irreparable harm if the Court does not impose a stay, as he will have to pay Creditor in full through a refinance and then expend estate assets to recover the money, if his appeal is successful. Loss of money is typically not irreparable harm. *Complete Entertainment Resources, LLC v. Live Nation*

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

2:00 PM

CONT... Markus Anthony Boyd Chapter 11

Entertainment, Inc., 2016 U.S. Dist. LEXIS 86418 at *7 (C.D. Cal. 2016). As Debtor states himself, he can reclaim the money paid to Creditor if his appeal reaches a successful conclusion.

In addition, Debtor has not demonstrated a substantial possibility of success on appeal. As the Court's opinion granting Creditor's motion to dismiss made clear, Debtor seeks a finding with little legal basis that would radically transform the relationship between secured creditors and debtors during bankruptcy cases. Moreover, Debtor's argument that the lien against the property was transformed into a constructive trust is unconvincing and lacks support.

The Court does not find that a non-moving party would suffer substantial injury if a stay as issued, or that public interests may be affected, besides the general public interest in the speedy resolution of judicial matters.

Upon a balancing of the four factors detailed above, the Court finds that there is insufficient justification to order a stay of the Court's order dismissing Debtor's objection

TENTATIVE RULING

6/4/2019

Service: Proper

Opposition: Yes

The Court is inclined to DENY Debtor's motion to stay the order.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Defendant(s):

U.S. BANK

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

2:00 PM

CONT... Markus Anthony Boyd Chapter 11

SPECIALIZED LOAN SERVICING Pro Se

Series 2007-FFC First Franklin Pro Se

First Franklin Mortgage Loan Trust, Represented By
Erin M McCartney

Movant(s):

Markus Anthony Boyd Represented By
Nicholas W Gebelt

Plaintiff(s):

Markus Anthony Boyd Represented By
Nicholas W Gebelt

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, June 4, 2019

Hearing Room 303

2:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#16.00 Motion by Creditor's Andrzej Luczynski and Z&M Trading, Inc.'s Objection to Debtor's Claims of Exemption

EH__

Docket 67

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Interested Party

Represented By
Dawn M Coulson

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#17.00 Motion to Compel Assumption or Rejection of Defaulted Unexpired Lease of Personal Property; for Provision of Adequate Protection and Maintenance of 11 U.S.C. § 365(d)(5) Payments; and for Relief from Stay in Event of Rejection of Lease

Also #17.1

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Ford Motor Credit Company LLC

Represented By
Randall P Mroczynski

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#17.10 Motion to Consolidate Lead Case 6:19-bk-13127-MH with 6:19-bk-13130-MH;
6:19-bk-13131-MH; 6:19-bk-13132-MH; 6:19-bk-13133-MH

Also #17

EH _____

Docket 16

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, June 4, 2019

Hearing Room 303

2:00 PM

6:19-13130 9 FINGERS INC

Chapter 11

#18.00 Motion to Consolidate Lead Case 6:19-bk-13127-MH with 6:19-bk-13130-MH

EH__

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

9 FINGERS INC

Represented By
Robert B Rosenstein

Movant(s):

9 FINGERS INC

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, June 4, 2019

Hearing Room 303

2:00 PM

6:19-13131 P&P HARDWARE INC.

Chapter 11

#19.00 Motion to Consolidate Lead Case 6:19-bk-13127-MH with 6:19-bk-13131-MH

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

P&P HARDWARE INC.

Represented By
Robert B Rosenstein

Movant(s):

P&P HARDWARE INC.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, June 4, 2019

Hearing Room 303

2:00 PM

6:19-13132 RIVERSIDE ACE HARDWARE INC.

Chapter 11

#20.00 Motion to Consolidate Lead Case 6:19-bk-13127-MH with 6:19-bk-13132-MH

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, June 4, 2019

Hearing Room 303

2:00 PM

6:19-13133 WILDOMAR ACE HARDWARE INC.

Chapter 11

#21.00 Motion to Consolidate Lead Case 6:19-bk-13127-MH with 6:19-bk-13133-MH

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

3:00 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#22.00 Motion to Approve Non-Material Modification to Its Second Amended Chapter 11 Reorganization Plan

Also #23-#24

EH__

Docket 253

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

3:00 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#23.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 11/27/18, 12/19/18, 12/20/18, 1/15/19, 2/26/19, 3/19/19

Also #22-#24

EH__

Docket 5

Tentative Ruling:

12/19/2018

All parties have authorization to appear telephonically for the 12/19/2018 Status
Conference.

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 4, 2019

Hearing Room 303

3:00 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#24.00 Confirmation of Chapter 11 Plan

Also #22-#23

EH__

Docket 199

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:09-37653 Debi Jo Killian

Chapter 7

#1.00 CONT Motion for Order Confirming Personal Injury Award is Exempt and Not Part of Bankruptcy Estate

From: 1/9/19, 4/10/19

EH ____

Docket 21

***** VACATED *** REASON: CONTINUED TO 6/26/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Debi Jo Killian

Represented By
Gregory J Doan
Michael H Raichelson

Movant(s):

Debi Jo Killian

Represented By
Gregory J Doan
Michael H Raichelson

Trustee(s):

John P Pringle (TR)

Represented By
Michelle A Marchisotto

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:17-16255 Chad Priest Construction, Inc.,

Chapter 7

#2.00 Motion of Trustee for order authorizing Trustee to abandon and destroy books and records of debtor

EH__

Docket 54

Tentative Ruling:

6/5/19

BACKGROUND

On July 27, 2017, Chad Priest Construction, Inc. ("Debtor") filed a Chapter 7 voluntary petition.

On April 22, 2019, Trustee filed a motion to abandon and destroy books and records. Eighteen days later, on May 10, 2019, the Court entered an order granting the motion [Dkt. No. 56]. The order contained a provision which stated that Trustee may destroy the books and records if Debtor did not pick them up within one week of the entry of the order.

On May 13, 2019, Douglas & Deanna Pearson (the "Pearsons"), plaintiffs in state court litigation in which the Debtor is a defendant, filed an opposition to the abandonment motion. The Pearsons state that they need the records for the state court litigation, that the records are not available from any other source, and that, while their attorney is listed on the proof service, they did not receive a copy of the motion prior to the order being entered. Later on May 13, 2019, Trustee set the matter for hearing.

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Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

CONT... Chad Priest Construction, Inc.,

Chapter 7

DISCUSSION

Because this Court entered an order on the motion to abandon, which is now a final order, the matter has been adjudicated, and the Court has not received any request to vacate that order. Additionally, it does not appear that the Pearsons would have any objection to the Trustee's abandonment of the books and records; instead, the Pearsons only want the books and records to not be destroyed. On the present evidentiary record and procedural posture, this request is not properly reviewable by this Court.

TENTATIVE RULING

Parties to apprise the Court of the status of the books and records and whether they have arrived at a mutually agreeable solution.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Chad Priest Construction, Inc.,

Represented By
Jonathan R Preston

Trustee(s):

Karl T Anderson (TR)

Represented By
Robert A Hessling

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:18-16783 Stephanie M Graham

Chapter 7

#3.00 Motion For Sale of Property of the Estate under Section 363(b) - (2006 Mercedes Benz CLS)

Also #4

EH__

Docket 25

Tentative Ruling:

6/5/19

BACKGROUND

On August 10, 2018, Stephanie Graham ("Debtor") filed a Chapter 7 voluntary petition. On November 19, 2018, Debtor received a discharge. Seven unsecured claims, totaling \$46,195.97, were filed in this case.

On February 26, 2019, the Court entered an order approving the application of Jack Pope as auctioneer. On May 17, 2019, Trustee filed a motion for authority to sell a 2006 Mercedes Benz CLS (the "Property") via auction. Trustee estimates that the Property will sell for \$7,000 at auction.

DISCUSSION

11 U.S.C. § 363(b)(1) allows a trustee to sell property of the estate outside of the ordinary course, after notice and a hearing. A sale pursuant to § 363(b) requires a

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11:00 AM

CONT... **Stephanie M Graham**

Chapter 7

demonstration that the sale has a valid business justification. *In re 240 North Brand Partners, Ltd.*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996). "In approving any sale outside the ordinary course of business, the court must not only articulate a sufficient business reason for the sale, it must further find it is in the best interest of the estate, i.e. 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." *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal.).

Here, given that there are claims filed in this case and that there is unexempt equity in the Property which can be realized for the benefit of creditors, a sufficient business reason for the sale has been articulated. Furthermore, because Trustee has opted to hold a public auction of the Property, it appears clear that the sale will occur in good faith and will be an "arms-length" transaction. The motion does, however, lack a description of the proposed marketing/advertisement of the auction.

TENTATIVE RULING

The Court is inclined to GRANT the motion in its entirety, including waiving the Rule 6004(h) stay, conditioned upon Trustee provided an adequate explanation of the marketing/advertising of the proposed auction, as well as greater detail regarding the Property (model #, mileage, condition, etc.).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Stephanie M Graham

Represented By
Christopher Hewitt

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:18-16783 Stephanie M Graham

Chapter 7

#4.00 Application to Employ Pope's Antiques & Auctions, Inc. as Auctioneer and Motion for Order Authorizing Sale of Personal Property of the Estate

Also #3

EH__

Docket 20

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/17/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie M Graham

Represented By
Christopher Hewitt

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#5.00 Chapter 7 Trustee's Motion to Aprove Global Compromise Between Estate, Debtor, and Winegardner Masonry

Also #6 - #6.3

EH__

Docket 65

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#6.00 Chapter 7 Trustee's Motion for Order: (1) Establishing Conditions and Procedures for Dismissal of Case Under 11 U.S.C. Section 707(a); and (2) Approving Payment of Creditor Claims and Administrative Fees

Also #5 - #6.3

EH__

Docket 67

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
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Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#6.10 CONT Motion by Chapter 7 Trustee for Order Approving Equity Buy Back Agreement
(HOLDING DATE)

From: 12/5/18, 1/30/19, 4/10/19, 5/29/19

Also #5 - #6.3

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
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Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#6.20 CONT Application to Employ BHHS Perrie Mundy Realty Group as Real Estate Broker / Agent Declaration of Perrie Mundy in support
(HOLDING DATE)

From: 1/30/19, 4/10/19, 5/29/19

Also #5 - #6.3

EH__

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#6.30 CONT Motion for Objection to Claim of Exemptions by Debtor, Julie Lynn Salazar
(HOLDING DATE)

From: 1/16/19, 1/30/19, 4/10/19, 5/29/19

Also #5 - #6.2

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
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Courtroom 303 Calendar**

Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:18-20382 Gilberto Rodriguez and Grace Rodriguez

Chapter 7

#7.00 Application to Employ Pope's Antiques & Auctions, Inc. as Auctioneer and Motion for Order Authorizing Sale of Personal Property of the Estate

Also #8

EH__

Docket 28

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/17/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gilberto Rodriguez

Represented By
Patricia M Ashcraft

Joint Debtor(s):

Grace Rodriguez

Represented By
Patricia M Ashcraft

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, June 5, 2019

Hearing Room 303

11:00 AM

6:18-20382 Gilberto Rodriguez and Grace Rodriguez

Chapter 7

#8.00 Chapter 7 Trustee's Motion for Order authorizing Sale of Personal Property of the Estate re: 2018 Polaris Razor XP Turbo

Also #7

EH__

Docket 33

Tentative Ruling:

6/5/19

BACKGROUND

On December 11, 2018, Gilberto & Grace Rodriguez ("Debtors") filed a Chapter 7 voluntary petition. On March 25, 2019, Debtors received a discharge. Twenty unsecured claims, totaling \$19,451.15, were filed in this case.

On May 7, 2019, the Court entered an order approving the application of Jack Pope as auctioneer. On May 17, 2019, Trustee filed a motion for authority to sell a 2018 Polaris Razor XP Turbo (the "Property") via auction. Trustee estimates that the Property will sell for \$12,000 at auction.

DISCUSSION

11 U.S.C. § 363(b)(1) allows a trustee to sell property of the estate outside of the ordinary course, after notice and a hearing. A sale pursuant to § 363(b) requires a

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11:00 AM

CONT... Gilberto Rodriguez and Grace Rodriguez

Chapter 7

demonstration that the sale has a valid business justification. *In re 240 North Brand Partners, Ltd.*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996). "In approving any sale outside the ordinary course of business, the court must not only articulate a sufficient business reason for the sale, it must further find it is in the best interest of the estate, i.e. 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." *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal.).

Here, given that there are claims filed in this case and that there is unexempt equity in the Property which can be realized for the benefit of creditors, a sufficient business reason for the sale has been articulated. Furthermore, because Trustee has opted to hold a public auction of the Property, it appears clear that the sale will occur in good faith and will be an "arms-length" transaction. The motion does, however, lack a description of the proposed marketing/advertisement of the auction.

TENTATIVE RULING

The Court is inclined to GRANT the motion in its entirety, including waiving the Rule 6004(h) stay, conditioned upon Trustee provided an adequate explanation of the marketing/advertising of the proposed auction.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gilberto Rodriguez

Represented By
Patricia M Ashcraft

Joint Debtor(s):

Grace Rodriguez

Represented By
Patricia M Ashcraft

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11:00 AM

CONT... Gilberto Rodriguez and Grace Rodriguez

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:17-13012 Issa M Musharbash

Chapter 7

Adv#: 6:17-01138 Musharbash et al v. Musharbash et al

#9.00 CONT Pre-Trial RE: [1] Adversary case 6:17-ap-01138. Complaint to Determine Non-Dischargeability of Debt by Phillip Musharbash , Violette Musharbash against Issa M Musharbbash , Amal Musharbbash

From: 3/27/19, 4/24/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Issa M Musharbash

Represented By
Brian J Soo-Hoo

Defendant(s):

Issa M Musharbash

Pro Se

Amal Musharbash

Pro Se

Joint Debtor(s):

Amal Issa Musharbash

Represented By
Brian J Soo-Hoo

Plaintiff(s):

Phillip Musharbash

Pro Se

Violette Musharbash

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, June 5, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01213 Pringle v. JPMorgan Chase Bank, National Association dba Chas

#10.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01213. Complaint by John Pringle against JPMorgan Chase Bank, National Association dba Chase Bank, Chase Bank USA, National Association. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

From: 1/9/19, 3/13/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 9/4/19 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

JPMorgan Chase Bank, National

Represented By
Christopher O Rivas

Chase Bank USA, National

Represented By
Christopher O Rivas

Plaintiff(s):

John Pringle

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

**United States Bankruptcy Court
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CONT... Home Security Stores, Inc.

Chapter 7

**United States Bankruptcy Court
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2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

Adv#: 6:18-01237 G Hurtado Construction, Inc. v. Catano et al

#11.00 CONT Status Conference re Adversary case 6:18-ap-01237. Complaint by G Hurtado Construction, Inc. against Juan Catano, Faustino Magana, Donahoo & Associates, PC. (Charge To Estate - \$350.00). -CLAIM OBJECTIONS Nature of Suit: 14 - Recovery of money/property - other, 91- Declaratory judgment

From: 2/5/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

Defendant(s):

Juan Catano

Pro Se

Faustino Magana

Pro Se

Donahoo & Associates, PC

Pro Se

Plaintiff(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones

**United States Bankruptcy Court
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Wednesday, June 5, 2019

Hearing Room 303

2:00 PM

6:18-20756 Karl W Detlefsen

Chapter 7

Adv#: 6:19-01057 Maslar v. Detlefsen

#12.00 Status Conference RE: [1] Adversary case 6:19-ap-01057. Complaint by Jennifer Maslar against Karl W Detlefsen. willful and malicious injury))

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Karl W Detlefsen

Represented By
Christopher Hewitt

Defendant(s):

Karl W Detlefsen

Pro Se

Plaintiff(s):

Jennifer Maslar

Represented By
Sanaz S Bereliani

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, June 5, 2019

Hearing Room 303

2:00 PM

6:19-10279 Thomas Mount

Chapter 7

Adv#: 6:19-01050 Baker et al v. Mount

#13.00 Motion to set aside RE: Default

Also #14

EH__

Docket 9

Tentative Ruling:

6/5/19

BACKGROUND

On January 14, 2019, Thomas Mount ("Defendant") filed a Chapter 7 voluntary petition. On March 14, 2019, Jonathan Baker & Baker Entertainment Group (collectively, "Plaintiffs") filed an adversary complaint against Defendant for non-dischargeability pursuant to 11 U.S.C. § 523(a)(2)(A), (a)(4), and (a)(6), for denial of discharge pursuant to 1 U.S.C. § 727(a)(2)(A), (a)(4)(A)&(D), and (a)(5), and for unfair, unlawful and fraudulent business practices.

On April 23, 2019, upon the request of Plaintiffs, the Court entered Defendant's default. Two days later, while still in default, Defendant filed an answer. On May 7, 2019, Defendant filed a motion to set aside default. On May 16, 2019, Plaintiffs filed their opposition.

ANALYSIS

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Hearing Room 303

2:00 PM

CONT... Thomas Mount

Chapter 7

FED. R. CIV. P. Rule 55(c), made applicable to bankruptcy proceedings by FED. R. BANKR. P. Rule 7055, states: "[t]he court may set aside an entry of default for good cause, and it may set aside a final default judgment under Rule 60(b)." The Ninth Circuit has stated that: "To determine 'good cause,' [under FED. R. CIV. P. Rule 55(c)] a court must consider three factors: (1) whether the party seeking to set aside the default engaged in culpable conduct that led to the default; (2) whether it had no meritorious defense; or (3) whether reopening the default judgment would prejudice the other party." *United States v. Signed Pers. Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1091 (9th Cir. 2010) (quotation omitted).

Regarding the first factor, the culpability of the party seeking to set aside default, the Ninth Circuit has imposed a rather high threshold for the culpability which would justify this Court's refusal to set aside default. To wit:

A defendant's conduct is culpable if he has received actual or constructive notice of the filing of the action and *intentionally* failed to answer. As we have previously explained, in this context the term "intentionally" means that a movant cannot be treated as culpable simply for having made a conscious choice not to answer; rather, to treat a failure to answer as culpable, the movant must have acted with bad faith, such as an intention to take advantage of the opposing party, interfere with judicial decisionmaking, or otherwise manipulate the legal process. We have typically held that a defendant's conduct was culpable for purposes of the good cause factors where there is no explanation of the default inconsistent with a devious, deliberate, willful, or bad faith failure to respond. As we explained in *TCI Group*, our approach is consistent with *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S. 380, 388, 393-95 (1993), in light of which it is clear that simple carelessness is not sufficient to treat a negligent failure to reply as inexcusable, at least without a demonstration that other equitable factors, such as prejudice, weight heavily in favor of denial of the motion to set aside a default.

Id. at 1092-93 (quotations and citations omitted). The record before the Court is devoid of any evidence which would establish the culpability of Defendant under the test articulated above. While Plaintiffs argue that "Mr. Hewitt should know the consequences of his failure to answer and is presumed to be culpable," this argument must be rejected for two reasons. First, Mr. Hewitt is not the Defendant in this action.

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CONT...

Thomas Mount

Chapter 7

The presumption of knowledge has been applied by the Ninth Circuit when the defendant itself was a legally sophisticated party, and the Court rejects Plaintiffs attempt to extend this exception to any party that has hired an attorney. Second, assuming, *arguendo*, that Defendant was a legally sophisticated party, the Court is skeptical that the presumption of knowledge would automatically result in a finding of culpability, given the statement in *Mesle* that consciously choosing not to answer is insufficient for a finding of culpability. Finally, in the context of an adversary proceeding for non-dischargeability/objection to discharge, a delay in an answer would not normally constitute a manipulation of the legal process because the filing of the complaint precludes the entry of a discharge pursuant to FED. R. BANKR. P. Rule 4004(c). In other words, the plaintiffs temporarily receive the relief requested in the complaint unless the defendants successfully defend the complaint. In such a situation, it is difficult to see how a delay by the defendants could constitute a manipulation of legal process, absent certain unique circumstances not raised here.

Regarding the second factor, whether the defendant has a meritorious defense, the Ninth Circuit has stated that:

A defendant seeking to vacate a default judgment must present specific facts that would constitute a defense. But the burden on a party seeking to vacate a default judgment is not extraordinarily heavy. All that is necessary to satisfy the meritorious defense requirement is to allege sufficient facts that, if true, would constitute a defense: the question whether the factual allegation is true is not to be determined by the court when it decides the motion to set aside the default. Rather, that question would be the subject of the later litigation.

Id. at 1094. While Defendant has not put forward detailed facts to establish a meritorious defense, the low standard quoted above, combined with the fact that the Ninth Circuit has repeatedly referred to judgment by default as an "extreme circumstance," forces this Court to conclude that the standard has been satisfied. Specifically, contrary to Plaintiffs' assertion that Defendant's motion does not allege a single fact, the final paragraph of page 8 of Defendant's motion does allege facts, albeit generally. For example, Defendant asserts that "he and the Plaintiffs fairly negotiated a contract for his services, and that the Defendant has the records and other supporting documentation to prove that the Defendant rendered services in accordance

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CONT... Thomas Mount
with their Agreement."

Chapter 7

Regarding the third factor, whether Plaintiff would suffer legal prejudice, Plaintiff has not clearly raised an argument alleging that it would suffer legal prejudice. "To be prejudicial, the setting aside of a judgment must result in greater harm than simply delaying resolution of the case." *TCI Group Life Ins. Plan v. Knoebber*, 244 F.3d 691, 701 (9th Cir. 2001). "The standard is whether his ability to pursue his claim will be hindered." *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984); *see also Thompson v. Am. Home Assurance Co.*, 95 F.3d 429, 433-34 (6th Cir. 1996) ("Second, for the setting aside of a default judgment to be considered prejudicial, it must result in more than delay. Rather, the delay must result in tangible harm such as loss of evidence, increased difficulties of discovery, or greater opportunity for fraud or collusion."). Plaintiffs' assertion that it "would be prejudiced by proceeding blindly into litigation with no idea whether Defendant has a meritorious defense or not" [Dkt No. 15, pg. 14] simply does not constitute legal prejudice. Defendant's short delay in filing an answer to the complaint did not decrease Plaintiffs' knowledge of the merits of Defendant's defense in any manner.

Regarding Plaintiffs' request that the setting aside of default be conditioned upon payment of reasonable attorney fees incurred as a result of the delay, the Court agrees that equitable concerns merit reimbursing Plaintiff for expenses which were proximately caused by Defendant's delay. The Court does not, however, find the \$6,000 requested to be reasonable. The Court is inclined to award Plaintiffs \$1,000, reflecting expenses (c)-(d) on pages 17-18 of docket number 15, while denying the remainder of the fees requested. The fees identified in (a)-(b) appear to be general litigation fees not clearly related to Defendant's default. And Plaintiffs chose to litigate the instant motion rather than stipulate to the setting aside of default. As a result, it was not Defendant's default that caused the remainder of the fees to be incurred; rather those fees were incurred as a result of Plaintiff's litigation strategy.

TENTATIVE RULING

The Court is inclined to GRANT the motion, setting aside the motion conditioned on the payment by Defendant to Plaintiffs of the amount of \$1,000, representing

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CONT... Thomas Mount

Chapter 7

reasonable attorney fees incurred as a direct result of Defendant's default.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Thomas Mount

Represented By
Christopher Hewitt

Defendant(s):

Thomas Mount

Represented By
Christopher Hewitt

Plaintiff(s):

Jonathan Baker

Represented By
Baruch C Cohen

Baker Entertainment Group

Represented By
Baruch C Cohen

Trustee(s):

Charles W Daff (TR)

Pro Se

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6:19-10279 Thomas Mount

Chapter 7

Adv#: 6:19-01050 Baker et al v. Mount

#14.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01050. Complaint by Jonathan Baker, Baker Entertainment Group against Thomas Mount. Unlawful and Fraudulent Business Practice Cal. Bus. & Prof. Code § 17200. et seq. Nature of Suit: (62 (Dischargeability - 523(a)(2), 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)),(65 (Dischargeability - other)) (Cohen, Baruch)

From: 5/8/19

Also #13

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Thomas Mount

Represented By
Christopher Hewitt

Defendant(s):

Thomas Mount

Represented By
Christopher Hewitt

Plaintiff(s):

Jonathan Baker

Represented By
Baruch C Cohen

Baker Entertainment Group

Represented By
Baruch C Cohen

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Trustee(s):

Charles W Daff (TR)

Pro Se

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11:00 AM

6:14-13931 Annie Estrada

Chapter 13

#1.00 CONT Motion to vacate dismissal

From: 5/9/19

EH__

Docket 137

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/4/19**

Tentative Ruling:

5/9/19

BACKGROUND

On March 28, 2014, Annie Estrada ("Debtor") filed a Chapter 13 voluntary petition. On August 6, 2014, Debtor's Chapter 13 plan was confirmed. The Chapter 13 plan was subsequently modified twice.

On January 7, 2019, Trustee filed a motion to dismiss for delinquency, identifying a delinquency of approximately two months. After two continuances, the Court granted the motion to dismiss, allowing Debtor a ten-day period to convert to Chapter 7 in lieu of dismissal. On April 15, 2019, Debtor filed a notice to conversion to Chapter 7; that notice, however, was withdrawn approximately two hours later. On April 22, 2019, Debtor's case was dismissed.

On April 24, 2019, Debtor filed a motion to vacate dismissal, asserting that Debtor had obtained funds to cure the delinquency on April 15, 2019. The funds do not appear to have been received by Trustee until the day after dismissal, but Debtor's counsel states that he spoke with the Chapter 13 Trustee on April 15, 2019, and that

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CONT... Annie Estrada

Chapter 13

Counsel was under the impression that the case was not going to be dismissed. On April 25, 2019, Trustee filed comments indicating approval, subject to proper notice being given and Debtor submitting copies of her 2018 tax returns.

On April 26, 2019, Debtor filed an amended motion to vacate dismissal.

DISCUSSION

The Court notes that Debtor has set this matter for hearing on shortened noticed without filing an application shortening time. Debtor's notice of hearing sets an opposition deadline of April 25, 2019, *the day before the notice was filed*. Therefore, notice is improper.

TENTATIVE RULING

The Court is inclined to CONTINUE the matter to May 30, 2019. Debtor to give notice of the continuance to all parties in interest.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Annie Estrada

Represented By
Chris A Mullen

Movant(s):

Annie Estrada

Represented By
Chris A Mullen

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CONT... Annie Estrada

Chris A Mullen

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:16-14084 Martin Linares and Elvia Linares

Chapter 13

#2.00 CONT Trustee's Motion to Dismiss Case

From: 5/9/19

Also #3

EH__

Docket 86

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martin Linares

Represented By
Craig K Streed
Sundee M Teeple

Joint Debtor(s):

Elvia Linares

Represented By
Craig K Streed
Sundee M Teeple

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-14084 Martin Linares and Elvia Linares

Chapter 13

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

Also #2

EH__

Docket 91

***** VACATED *** REASON: ORDER ENTERED 6/5/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martin Linares

Represented By
Craig K Streed
Sundee M Teeple

Joint Debtor(s):

Elvia Linares

Represented By
Craig K Streed
Sundee M Teeple

Movant(s):

Martin Linares

Represented By
Craig K Streed
Craig K Streed
Craig K Streed
Sundee M Teeple
Sundee M Teeple
Sundee M Teeple

Elvia Linares

Represented By
Craig K Streed
Sundee M Teeple

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CONT... Martin Linares and Elvia Linares

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:17-10082 Francisco R Palacios

Chapter 13

#4.00 Motion to Disallow Claims/Objection to claim No. 7 re Franchise Tax Board

Also #5

EH__

Docket 197

Tentative Ruling:

6/6/19

BACKGROUND:

On January 5, 2017, Francisco Palacios ("Debtor") filed a Chapter 13 voluntary petition. On March 1, 2017, Debtor's Chapter 13 plan was confirmed.

On March 21, 2017, Franchise Tax Board ("FTB") filed a proof of claim in the amount of \$9,381.23 ("Claim 7"). Claim 7 identifies \$7,709.32 as secured and \$948.87 as entitled to priority. The case was dismissed on June 22, 2017; dismissal was vacated on July 10, 2017.

On July 26, 2017, Debtor filed a claim objection requesting that Claim 7 be decreased to \$4,369.12. On September 28, 2017, the Court entered an order on the claim objection which provided, in part, that the claim was reduced to \$4,748.13, but that all of the claim was entitled to priority [Dkt. No 126]. The order entered by the Court conflicts with Judge Jury's notes of the hearing, which state that she was allowing the claim in the amount of \$5,225.69, and that the claim was to be treated as secured.

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CONT... Francisco R Palacios

Chapter 13

The day after the order was entered, FTB filed an amended claim (the "FAC"). The FAC identified a total claim of \$10,483.82, a secured portion of \$7,709.32, and a priority amount of \$1,830.94. Then, on June 28, 2018, FTB filed a second amended claim (the "SAC"). The SAC identified a total claim of \$27,064.82, a secured portion of \$7,709.32, and a priority amount of \$18,411.94.

On May 2, 2019, Debtor filed an objection to the SAC. Debtor's claim objection appears to assert that the claim of FTB should be reduced to the amount reflected in the order entered as docket number 126.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d

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CONT... **Francisco R Palacios**

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at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

As the background section briefly illustrates, the procedural history of FTB's claim is somewhat complicated. Judge Jury appeared to have rendered an oral decision, then entered a written order inconsistent with that ruling. The next day FTB filed the FAC, which seemed to ignore those rulings; subsequently, the SAC was filed. The following table provides a breakdown of FTB's Claim:

Year	Claim 7	Oral Ruling	Written Order	The FAC	The SAC
2009	\$2,199.87	\$2,199.87	Unclear	\$2,199.87	\$2,199.87
2010	\$2,169.25	\$2,169.25	Unclear	\$2,169.25	\$2,169.25
2011	\$2,024.86	\$0	Unclear	\$2,024.86	\$2,024.86
2012	\$1,315.34	\$0	Unclear	\$1,315.34	\$1,315.34
2013	\$1,292.90	\$0	Unclear	\$1,292.90	\$1,292.90

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2014	\$379.01	\$379.01	Unclear	\$379.01	\$379.01
2015	TBD		Unclear	\$1,102.59	\$1,102.59
2016	TBD		Unclear	TBD	\$16,581

After listening to the hearing before Judge Jury on September 25, 2017, it appears that the discrepancy between the oral ruling and the written order is a result of a mathematical error made by Judge Jury at the hearing. Judge Jury indicated that she was disallowing Claim 7 in the amounts attributed to tax years 2011, 2012, 2013, but then appears to have miscalculated the number by \$477.56. It appears either the Court or Debtor corrected the number prior to the entry of the written order, but it remains unclear why the allowed portion of FTB's claim was identified as entitled to priority, while the secured status of the claim was not addressed. While the record is imperfect, the Court is adequately able to ascertain that Judge Jury intended to disallow that portion of FTB's claim related to tax years 2011, 2012, and 2013. Because that portion of the SAC has previously been disallowed, it is unenforceable against the estate.

Additionally, the Court is inclined to disallow that portion of Claim 7 (\$16,581) related to tax year 2016 in its entirety for two reasons. First, the declaration of Debtor asserts that he had no tax liability for tax year 2016. Second, notice and service being proper, the Court is inclined to deem FTB's failure to oppose to be consent to the relief requested. The Court considers this remedy to be especially appropriate given that FTB appears to have completely ignored this Court's previous order.

TENTATIVE RULING

The Court is inclined to GRANT the motion, reducing the claim of FTB to a total of

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\$5,850.72, fully secured. (the amount reflected in docket number 126 in addition to the amount claimed for tax year 2015).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Francisco R Palacios

Represented By
Paul Y Lee

Movant(s):

Francisco R Palacios

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:17-10082 Francisco R Palacios

Chapter 13

#5.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

Also #4

EH__

Docket 189

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Francisco R Palacios

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:17-12149 Irma Dalia Cantu

Chapter 13

#6.00 CONT Debtor's Motion for Order Disallowing Claim no 1-1 filed by Ocwen Loan Servicing, LLC
(HOLDING DATE)

From: 6/4/18, 8/30/18, 11/15/18

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Irma Dalia Cantu

Represented By
Leonard J Cravens

Movant(s):

Irma Dalia Cantu

Represented By
Leonard J Cravens
Leonard J Cravens

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:17-17589 Ryan Patrick McHugh and Jennifer Lynne McHugh

Chapter 13

#7.00 CONT Motion for Turnover of Property

From: 5/9/19

EH__

Docket 78

Tentative Ruling:

5/9/2019

BACKGROUND

On September 11, 2017, Ryan & Jennifer McHugh ("Debtors") filed a Chapter 13 voluntary petition. On November 9, 2017, Debtors' Chapter 13 plan was confirmed. The plan has subsequently been modified twice.

On April 7, 2019, Debtors filed a motion for turnover, requesting turnover from Wexler Wallace LLP of certain funds received from a confidential personal injury settlement.

DISCUSSION

The Court notes that service appears improper for several reasons. First, it does not appear that Wexler Wallace LLP has been served with the instant motion at all. Second, a motion for turnover is, at the least, a contested matter under FED. R. BANKR. P. Rule 9014 and, therefore, the Rule 7004 service requirements apply. Finally, Rule

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CONT... Ryan Patrick McHugh and Jennifer Lynne McHugh Chapter 13

7001(1) requires that a motion for turnover, with certain exceptions not applicable here, requires an adversary proceeding. While this requirement may be waivable in certain circumstances, service of the underlying motion here is inadequate.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Joint Debtor(s):

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Movant(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-13906 Ruby Lee Frazier

Chapter 13

#8.00 Motion to vacate dismissal

EH__

Docket 59

Tentative Ruling:

06/06/19

BACKGROUND

On May 8, 2018, Ruby Lee Frazier ("Debtor") filed a Chapter 13 voluntary petition. On July 5, 2018, Debtor's Chapter 13 plan was confirmed.

On April 10, 2019, Trustee filed a motion to dismiss for failure to make plan payments. On April 30, 2019, Trustee filed a declaration of non-opposition to the motion to dismiss, and, on May 2, 2019, the Court dismissed the case.

On May 7, 2019, Debtor filed a motion to vacate dismissal arguing that the case was dismissed due to attorney mistake. Among other things, Debtor's counsel states that while Debtor's former bankruptcy counsel was in communication with Chapter 13 trustee staff regarding a stipulation to bring the plan current, neither a written opposition nor a motion to modify was filed. Debtor was in communication with their attorney of record at the time, had agreed to make an immediate payment with the balance due to be paid very shortly thereafter, and due to a communication issue with prior counsel, Debtor believed that a stipulation to stop the dismissal was pending.

On May 8, 2019, Trustee filed comments indicating conditional approval of the

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CONT... Ruby Lee Frazier
motion.

Chapter 13

DISCUSSION

Debtor relies on FED. R. CIV. P. Rule 60(b)(1), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, which allows for relief from an order based on "mistake, inadvertence, surprise, or excusable neglect."

The legal basis for Debtor's assertion that the dismissal order should be vacated is that Debtor's former counsel was in communication with Trustee regarding stipulation to bring the plan current, but neither a written opposition nor a motion to modify was filed. It is well established that "an attorney's ignorance and carelessness does not provide grounds for Rule 60(b) relief." *In re Mercado*, 144 B.R. 879, 886 (Bankr. C.D. Cal. 1992) (citing *Bershad v. McDonough*, 469 F.2d 1333, 1337 (7th Cir. 1972)). And the mere assertion that counsel did not fulfill its duties, but that such carelessness was inadvertent, is clearly inadequate to support Rule 60(b) relief. *See, e.g., In re ACME Motors, Inc.*, 125 B.R. 702, 703 (Bankr. D.R.I. 1991).

"Rule 60(b) relief is extraordinary." *Id.* Yet, in this court, a request for relief from a Chapter 13 dismissal order has become semi-ordinary. On occasion, the requests are legally sound. Here, however, the evidence provided simply indicates that Debtor's counsel did not take any steps to effectively oppose the Trustee's motion to dismiss.

The Seventh Circuit has stated that:

[T]he clients are principals, the attorney is an agent, and under the law of agency the principal is bound by his chosen agent's deeds. The rule is that *all* of the attorney's misconduct (except in the cases where the act is outside the scope of employment or in cases of excusable neglect) becomes the problem of the client. A lawyer who inexcusably neglects his client's obligations does

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not present exceptional circumstances.

Chapter 13

Bakery Mach. & Fabrication, Inc. v. Traditional Baking, Inc., 570 F.3d 845, 848 (7th Cir. 2009). "Although attorney carelessness can [in certain circumstances] constitute 'excusable neglect' under Rule 60(b)(1), attorney inattentiveness to litigation is not excusable, no matter what the resulting consequences the attorney's somnolent behavior may have on a litigant." *Easley v. Kirmsee*, 382 F.3d 693, 698 (7th Cir. 2004) (collecting cases).

Here, when the Chapter 13 trustee indicates conditional approval of the motion, when Debtor promptly moved to address the dismissal, including hiring new counsel to oversee the bankruptcy case, the Court is inclined to GRANT the motion conditioned on compliance with the Trustee's conditions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ruby Lee Frazier

Represented By
Michael D Franco

Movant(s):

Ruby Lee Frazier

Represented By
Michael D Franco

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-20296 Daniel Lee Crump

Chapter 13

#9.00 CONT Confirmation of Chapter 13 Plan

From: 1/31/19, 2/28/19, 3/14/19, 4/25/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Lee Crump

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:18-20619 Deverick Brian Jackson

Chapter 13

#10.00 Motion to Disallow Claims of Arrowhead Credit Union- ATTN: 083, Claim Number10, Pursuant to 11 U.S.C Section 502

EH__

Docket 26

Tentative Ruling:

6/6/19

BACKGROUND:

On December 20, 2018, Deverick Brian Jackson ("Debtor") filed a Chapter 13 voluntary petition. The claims bar date to file a proof of claim was February 28, 2019. On March 14, 2019, Debtor's Chapter 13 plan was confirmed.

On April 3, 2019, Arrowhead Credit Union ("Creditor") filed a proof of claim for an unsecured claim in the amount of \$1,977.06 ("Claim 10"). On April 18, 2019, Trustee filed notice of additional claims. On May 2, 2019, Debtor filed a Motion to Disallow Claim 10 as late-filed.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie*

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CONT... **Deverick Brian Jackson**

Chapter 13

evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

FED. R. BANKR. P. Rule 3003(c)(3) provides for the creation of a claim bar deadline, and FED. R. BANKR. P. Rule 3002(c) provides certain exceptions to the rule that claims must be timely filed. Creditor has not argued that any of these exceptions apply. The Court notes that recent amendments resulted in the creation of FED. R. BANKR. P. Rule 3002(c)(6)(A). While case law on the recent amendment is sparse, it does not appear that the amendment is applicable to this situation. See 9 COLLIER'S ON BANKRUPTCY ¶ 3002.03[7] (16th ed. 2017) ("A creditor may not argue under Rule 3002(c)(6)(A) that

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CONT... Deverick Brian Jackson

Chapter 13

the notice was insufficient for reasons other than those caused by the untimely filing of the list of creditors.").

"[T]he Ninth Circuit has repeatedly held that the deadline to file a proof of claim in a Chapter 13 proceeding is 'rigid,' and the bankruptcy court lacks equitable power to extent this deadline after the fact." *In re Barker*, 839 F.3d 1189, 1197 (9th Cir. 2016). "By virtue of Rule 9006(b)(3), a bankruptcy court does not have discretion to enlarge the time periods fixed by Rule 3002(c) nor permit an untimely claim when none of Rule 3002(c)'s five exceptions is applicable." *In re Hayes*, 327 B.R. 453, 458 (Bankr. C.D. Cal. 2005) (footnote omitted); *see also In re Edelman*, 237 B.R. 146, 152 (B.A.P. 9th Cir. 1999). Here, none of Rule 3002(c)'s exceptions apply.

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed until a party in interest objects. Debtor has objected to Creditor's proof of claim on the grounds that Claim 10 was filed after the claim bar deadline. The FED. R. BANKR. P. Rule 3002(c) exceptions do not apply. Therefore, Claim 10 is deemed unenforceable.

TENTATIVE RULING

The Court is inclined to GRANT the motion, DISALLOWING Claim 10.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Deverick Brian Jackson

Represented By
Steven A Alpert

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

CONT... Deverick Brian Jackson

Chapter 13

Movant(s):

Deverick Brian Jackson

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-11757 Virginia Ann Bennett

Chapter 13

#11.00 CONT Motion for Relief from Stay

MOVANT: CAPITAL AUTO FINANCIAL

From: 4/16/19, 5/23/19

EH__

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Virginia Ann Bennett

Represented By
Lionel E Giron
Crystle Jane Lindsey

Movant(s):

Capital Auto Financial

Represented By
Gennady L Lebedev

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-11911 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#12.00 Motion for Setting Property Value re 2011 Nissan Murano

Also #13 & #14

EH__

Docket 29

Tentative Ruling:

6/6/19

BACKGROUND

On March 9, 2019, Jorge Manuel Azmitia and Yoshiko Azmitia ("Debtor") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2011 Nissan Murano (the "Property"). CarMax Business Services, LLC ("Creditor") holds a security interest in the Property. On March 12, 2019, Creditor filed a proof of claim in the amount of \$17,541.38, identifying \$17,541.38 as secured by the Property.

On February 18, 2019, Debtor filed a motion to value the Property. Debtor asserts that the Property should be valued at \$10,625.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See*

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CONT... Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

In re Penrod, 636 F.3d 1175, 1177 (9th Cir. 2011).

Presently, the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge." *Morales* at 46.

Here, Debtor has provided a N.A.D.A. Guide report identifying the clean retail value of the Property. Therefore, the Court will GRANT the Motion to Value the Nissan Murano.

TENTATIVE RULING

The Court is inclined to GRANT the motion in its entirety, and value the Property at \$10,625, with the remainder treated as general unsecured debt.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

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11:00 AM

CONT... **Jorge Manuel Azmitia and Yoshiko Azmitia**

Chapter 13

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas M Wajda

Movant(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Yoshiko Azmitia

Represented By
Nicholas M Wajda
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-11911 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#13.00 Motion for Setting Property Value re 2013 Ford Escape

Also #12 & #14

EH__

Docket 30

Tentative Ruling:

06/06/2019

BACKGROUND

On March 9, 2019, Jorge Manuel Azmitia and Yoshiko Azmitia ("Debtors") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2013 Ford Escape (the "Property"). Capital One Auto Finance ("Creditor") holds a security interest in the Property.

On April 23, 2019, Debtors filed a motion to value the Property. Debtors assert that the Property should be valued at \$11,025.00. On May 20, 2019, Creditor filed a proof of claim for \$16,588.98 ("Claim 25"), identifying \$7,977 as secured.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor

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Central District of California
Riverside
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Courtroom 303 Calendar**

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CONT... **Jorge Manuel Azmitia and Yoshiko Azmitia** **Chapter 13**

can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

Presently, the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge." *Morales* at 46.

Here, Debtor has provided a N.A.D.A report identifying the clean retail value of the 2013 Ford Escape, and the Court deems the non-opposition to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of valuing the Property at \$11,025, with the remainder treated as general unsecured.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, June 6, 2019

Hearing Room 303

11:00 AM

CONT... Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas M Wajda

Movant(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Yoshiko Azmitia

Represented By
Nicholas M Wajda
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-11911 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#14.00 CONT Confirmation of Chapter 13 Plan

From: 5/23/19

Also #12 & #13

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-11992 Pablo Cornejo

Chapter 13

#15.00 CONT Confirmation of Chapter 13 Plan

From: 5/23/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pablo Cornejo

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12169 Jason G. Brodowski and Lithia A. Brodowski

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jason G. Brodowski

Represented By
Patricia M Ashcraft

Joint Debtor(s):

Lithia A. Brodowski

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12186 Roshanda Jeannen Dodds

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roshanda Jeannen Dodds

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12195 Jerold Ray Hoxie

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 21

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerold Ray Hoxie

Represented By
Suzette Douglas

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12218 Keionna Marie Pitts

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Keionna Marie Pitts

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12219 Michael Lawrence Ricks and Debra Jean Ricks

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Lawrence Ricks

Represented By
Richard Komisars III

Joint Debtor(s):

Debra Jean Ricks

Represented By
Richard Komisars III

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12224 Martin Warren

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 5/20/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martin Warren

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12231 Jose Carlos Pina

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Carlos Pina

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12264 Abelino Cervantes

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 4/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Abelino Cervantes

Represented By
Khushwant Sean Singh

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12281 Edward Lamont Samuels

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 21

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edward Lamont Samuels

Represented By
Alon Darvish

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12323 Isela Irma Vega

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Isela Irma Vega

Represented By
Gregory M Shanfeld

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12324 Jose Cruz Valenzuela, Jr. and Ariana Marlene Gonzalez

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Cruz Valenzuela Jr.

Represented By
Gregory M Shanfeld

Joint Debtor(s):

Ariana Marlene Gonzalez

Represented By
Gregory M Shanfeld

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12361 Ethel Ntom Odimegwu

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ethel Ntom Odimegwu

Represented By
David A Akintimoye

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12374 Irene Abreu-Alba

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Irene Abreu-Alba

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12375 Terry L. Hogle

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Terry L. Hogle

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12390 Walter Raymond Ruff and Jennifer Marie Ruff

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Walter Raymond Ruff

Represented By
Edgar P Lombera

Joint Debtor(s):

Jennifer Marie Ruff

Represented By
Edgar P Lombera

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12396 Anthony Tyrone Moore

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/12/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony Tyrone Moore

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12398 Jerry Melendrez and Laura Therese Melendrez

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerry Melendrez

Represented By
Todd L Turoci

Joint Debtor(s):

Laura Therese Melendrez

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12402 Paul Sheldon Kirkwood

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Sheldon Kirkwood

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12428 Elsa Firra Comulada

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elsa Firra Comulada

Represented By
Matthew D Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12439 Caleb Gervin and Ashley Gervin

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Caleb Gervin

Represented By
Christopher Hewitt

Joint Debtor(s):

Ashley Gervin

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12463 LaKeche Marie Haley-Mays

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/15/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LaKeche Marie Haley-Mays

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12467 Sheila Marie Malone

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 10

***** VACATED *** REASON: CASE DISMISSED 4/15/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sheila Marie Malone

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12482 Ramon Leo Delgado

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ramon Leo Delgado

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12483 Hector Jesus Sevilla

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hector Jesus Sevilla

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12493 Angel Victoriano and Maura Guzman

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angel Victoriano

Represented By
Edward T Weber

Joint Debtor(s):

Maura Guzman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12494 Jesus Escamilla, Jr

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus Escamilla Jr

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12502 David R Cook

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 3

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David R Cook

Represented By
Marjorie M Johnson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12516 Jacob Maxwell Stroud

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/5/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jacob Maxwell Stroud

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-12626 Diana June Tucker

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Diana June Tucker

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-13334 Rafael Gonzalez and Sonia Cardenas

Chapter 13

#45.00 Motion to vacate dismissal

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Joint Debtor(s):

Sonia Cardenas

Represented By
Henry D Paloci

Movant(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Sonia Cardenas

Represented By
Henry D Paloci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:19-14141 Rafael Gonzalez and Sonia Cardenas

Chapter 13

#45.10 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

MOVANT: RAFAEL GONZALEZ AND SONIA CARDENAS

Advanced From: 6/11/19

EH ____

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Joint Debtor(s):

Sonia Cardenas

Represented By
Henry D Paloci

Movant(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Sonia Cardenas

Represented By
Henry D Paloci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:00 AM

6:10-20626 Irma Cantu

Chapter 13

Adv#: 6:17-01057 Cantu v. Ocwen Loan Servicing, LLC et al

#46.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01057. Complaint by Irma Cantu against Ocwen Loan Servicing, LLC. (Fee Not Required). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(65 (Dischargeability - other)),(72 (Injunctive relief - other)) (Cravens, Leonard)

From: 11/15/18

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Irma Cantu

Represented By
Leonard J Cravens

Defendant(s):

Ocwen Loan Servicing, LLC

Represented By
Adam N Barasch

Ocwen Loan Servicing, LLC

Represented By
Adam N Barasch

Plaintiff(s):

Irma Cantu

Represented By
Leonard J Cravens

Trustee(s):

Rod (MJ) Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:14-10793 Robert Anthony Maruffo and Allison Marie Maruffo

Chapter 13

#47.00 CONT Trustee's Motion to Dismiss Case

From: 5/23/19

EH__

Docket 82

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Anthony Maruffo

Represented By
Carey C Pickford

Joint Debtor(s):

Allison Marie Maruffo

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:14-24084 Michael Lee Barnes and Belinda Ann Barnes

Chapter 13

#48.00 Trustee's Motion to Dismiss Case

EH__

Docket 143

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Lee Barnes

Represented By
Todd L Turoci

Joint Debtor(s):

Belinda Ann Barnes

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:15-10488 Jose L Rangel and Rosa M Rangel

Chapter 13

#49.00 Trustee's Motion to Dismiss Case

EH__

Docket 141

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose L Rangel

Represented By
Lisa H Robinson
John F Brady

Joint Debtor(s):

Rosa M Rangel

Represented By
Lisa H Robinson
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:15-17561 Cresencio Ramirez Ramirez and Maria Olga Ramirez

Chapter 13

#50.00 CONT Trustee's Motion to Dismiss Case

From: 5/23/19

EH__

Docket 153

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cresencio Ramirez Ramirez

Represented By
John F Brady

Joint Debtor(s):

Maria Olga Ramirez

Represented By
John F Brady

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:16-10066 Saul Lara Sanchez

Chapter 13

#51.00 Trustee's Motion to Dismiss Case

EH__

Docket 72

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Saul Lara Sanchez

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:16-17536 Gracey Hunter

Chapter 7

#52.00 Trustee's Motion to Dismiss Case

EH__

Docket 98

*** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
6/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gracey Hunter

Represented By
Todd L Turoci

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:17-10811 Manuel Huertas

Chapter 13

#53.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19, 5/9/19

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Manuel Huertas

Represented By
Marcella Lucente

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:17-11760 Jose Tinoco and Monica Tinoco

Chapter 13

#54.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19, 5/23/19

EH__

Docket 29

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Tinoco

Represented By
Juanita V Miller

Joint Debtor(s):

Monica Tinoco

Represented By
Juanita V Miller

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:17-11901 Jose Camacho Payan and Erika Vanessa Payan

Chapter 13

#55.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Camacho Payan

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Erika Vanessa Payan

Represented By
Ramiro Flores Munoz

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:17-17189 Earma Denise Young Washington and Marvin Ray

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 79

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Earma Denise Young Washington

Represented By
Brad Weil

Joint Debtor(s):

Marvin Ray Washington

Represented By
Brad Weil

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:17-17469 Annette Culpepper

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

*** VACATED *** REASON: CASE DISMISSED 6/6/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annette Culpepper

Represented By
Nathan Fransen

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-10740 Karin Olaya

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 79

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Karin Olaya

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-11081 Stephen Daniel Payan

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 54

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Daniel Payan

Represented By
Paul J Kurtzhall

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-12822 Cynthia Miller

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cynthia Miller

Represented By
Richard L Barrett

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-13172 Michelle Cadena Quinn

Chapter 13

#61.00 CONT Trustee's Motion to Dismiss Case

From: 5/9/19

EH__

Docket 65

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Cadena Quinn

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-14277 Cesar Orozco

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH__

Docket 39

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cesar Orozco

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-15598 Stephen Mark Caldwell

Chapter 13

#63.00 Trustee's Motion to Dismiss Case

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Mark Caldwell

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-16694 Cynthia M Gonzalez and Guadalupe Siddiqui

Chapter 13

#64.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19, 5/23/19

EH__

Docket 40

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/29/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cynthia M Gonzalez

Represented By
Paul Y Lee

Joint Debtor(s):

Guadalupe Siddiqui

Represented By
Paul Y Lee

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-17676 Patricia Ellen Bond-Gomez

Chapter 13

#65.00 CONT Trustee's Motion to Dismiss Case

From: 3/28/19, 4/25/19, 5/23/19

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Ellen Bond-Gomez

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-17700 Nick Caropino

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nick Caropino

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-17735 Carlos Garcia

Chapter 13

#67.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/19

EH__

Docket 34

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlos Garcia

Represented By
John F Brady

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-19093 Yolanda Williams

Chapter 13

#68.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yolanda Williams

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-20232 Diana Marie Perrone

Chapter 13

#69.00 Trustee's Motion to Dismiss Case

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Diana Marie Perrone

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:18-20547 Tawnie L Vanderham

Chapter 13

#70.00 Trustee's Motion to Dismiss Case

EH__

Docket 46

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tawnie L Vanderham

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 6, 2019

Hearing Room 303

11:01 AM

6:17-15772 Annette Leshon Rudd

Chapter 13

#71.00 Trustee's Motion to Dismiss Case

EH__

Docket 70

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annette Leshon Rudd

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, June 10, 2019

Hearing Room 303

9:30 AM

6:18-20003 LC Stahl LLC

Chapter 11

#1.00 CONT for Evidentiary Hearing re Motion for Relief from Stay Automatic Stay Under 11 U.S.C. Section 362 (with supporting declarations) (Real Property)

MOVANT: LOAN FUNDER LLC, SERIES 1829

From: 2/26/19, 3/5/19, 4/10/19, 5/7/19, 6/3/19

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

Movant(s):

Loan Funder LLC, Series 1829

Represented By
Jeffrey N Brown

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, June 10, 2019

Hearing Room 303

2:00 PM

6:18-17730 Sally Jeanne Way

Chapter 7

Adv#: 6:18-01238 Daff, Chapter 7 Trustee v. Alohrav Studios, Inc., a Delaware corporation

#2.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01238. Complaint by Charles W. Daff, Chapter 7 Trustee against Alohrav Studios, Inc., a Delaware corporation. (Charge To Estate). Verified Complaint for: 1) Quiet Title; 2) Cancellation of Instrument; and 3) Declaratory Relief Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

From: 2/6/19, 3/13/19, 4/10/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/12/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sally Jeanne Way

Represented By
Summer M Shaw

Defendant(s):

Alohrav Studios, Inc., a Delaware

Pro Se

Plaintiff(s):

Charles W. Daff, Chapter 7 Trustee

Represented By
Brandon J Iskander

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Brandon J Iskander

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:17-18270 Linnea Rennee-Chrismon Allen

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11623 Primavera Road, Pinon Hills, CA 92372

MOVANT: SPECIALIZED LOAN SERVICING LLC

From: 5/28/19

EH__

Docket 34

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT movant ability to proceed under applicable nonbankruptcy law to enforce its remedies. GRANT waiver of 14-day stay prescribed by FRBP 4001(a)(3). GRANT defining Debtor as borrower in 2920.5(c)(2)(C).

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Linnea Rennee-Chrismon Allen

Represented By
Scott Kosner

Movant(s):

SPECIALIZED LOAN SERVICING

Represented By
Mukta Suri
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

CONT... Linnea Rennee-Chrismon Allen

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:17-20487 Ann Marie Smith

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6140 Sard St, Alta Loma, CA 91701

MOVANT: WELLS FARGO BANK N.A.

EH__

Docket 85

Tentative Ruling:

6/11/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from § 1301(a) stay. GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2, 3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ann Marie Smith

Represented By
Brian J Soo-Hoo

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Nancy L Lee
Jonetta A Graves

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:17-20489 Michael S McGowan and Brandy L McGowan

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 HONDA PILOT, VIN: 5FNY F5H5 9GB0 35100

MOVANT: AMERICAN HONDA FINANCE CORPORATION

From: 5/28/19

EH__

Docket 49

***** VACATED *** REASON: ORDER ENTERED 5/29/19**

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1). GRANT request to proceed under applicable nonbankruptcy law to enforce its remedies. GRANT termination of co-debtor stay of 11 U.S.C. § 1201(a) or § 1301(a). GRANT waiver of 14-day stay prescribed by FRBP 4001(a)(3). DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael S McGowan

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Brandy L McGowan

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

CONT... Michael S McGowan and Brandy L McGowan
Terrence Fantauzzi

Chapter 13

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:18-14388 Jesus Pabloff and Virginia Pabloff

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 Honda Civic, VIN: 2HGFB2F54CH591339

MOVANT: SANTANDER CONSUMER USA INC

EH__

Docket 69

Tentative Ruling:

6/11/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jesus Pabloff

Represented By
Tom A Moore

Joint Debtor(s):

Virginia Pabloff

Represented By
Tom A Moore

Movant(s):

Santander Consumer USA Inc.

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

CONT... Jesus Pabloff and Virginia Pabloff

Chapter 13

Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:18-17597 David Meisland

Chapter 13

#5.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 26818 Montseratt Court, Murrieta, California 92563

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

From: 3/26/19, 4/30/19, 5/28/19

EH__

Docket 39

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/7/19

Tentative Ruling:

3/26/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David Meisland

Represented By
Nima S Vokshori

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

CONT... David Meisland

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:18-18557 Gema Beniukoff and Ruben Sotelo

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 FORD FIESTA, VIN #: 3FADP4EJ7FM176223

MOVANT: REGIONAL ACCEPTANCE CORPORATION

EH__

Docket 32

Tentative Ruling:

6/11/2019

Service is Proper
Opposition: Yes

Movant to confirm that Debtors have cured all arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gema Beniukoff

Represented By
Amanda G Billyard

Joint Debtor(s):

Ruben Sotelo

Represented By
Amanda G Billyard

Movant(s):

REGIONAL ACCEPTANCE

Represented By
Michael D Vanlochem

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

CONT... Gema Beniukoff and Ruben Sotelo

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:19-11515 James Ralph Albano

Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 36651 Indian Knoll Road, Temecula, CA 92592

MOVANT: U.S. BANK NATIONAL ASSOCIATION

CASE DISMISSED 5/22/19

EH__

Docket 20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Ralph Albano

Represented By
Derik N Lewis

Movant(s):

U.S. Bank National Association, as

Represented By
Angie M Marth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:19-13322 Karla E. Ramirez

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Dodger Charger

MOVANT: GATEWAY ONE LENDING & FINANCE

EH__

Docket 8

Tentative Ruling:

6/11/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Karla E. Ramirez

Represented By
Keith Q Nguyen

Movant(s):

Gateway One Lending & Finance

Represented By
Karel G Rocha

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:19-13415 Diane Tucker

Chapter 13

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2078 W 99TH ST, LOS ANGELES, CA 90047-4003

MOVANT: WILMINGTON TRUST, NATIONAL ASSOCIATION

EH__

Docket 21

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Diane Tucker

Pro Se

Movant(s):

Wilmington Trust, National

Represented By
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:19-13450 Anthony Joseph Scalero and Tiffany Rene Veloz

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Dodge Charger VIN 2C3CDXBG8DH625904

MOVANT: SANTANDER CONSUMER USA INC. DBA CHRYSLER CAPITAL

EH__

Docket 9

Tentative Ruling:

6/11/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Anthony Joseph Scalero

Represented By
Sundee M Teeple

Joint Debtor(s):

Tiffany Rene Veloz

Represented By
Sundee M Teeple

Movant(s):

Santander Consumer USA Inc. dba

Represented By

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

10:00 AM

**CONT... Anthony Joseph Scalero and Tiffany Rene Veloz
Jennifer H Wang**

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:19-13774 Ignacio Alejandro Ponce and Maria D Martinez De Ponce

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Nissan Sentra

MOVANT: THE GOLDEN 1 CREDIT UNION

EH__

Docket 10

Tentative Ruling:

6/11/2019

Service is Improper
Opposition: None

Notwithstanding the failure to serve Debtors' Counsel, because Debtors have indicated that they intend to surrender the subject collateral, the Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)(1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ignacio Alejandro Ponce

Represented By
James Geoffrey Beirne

Joint Debtor(s):

Maria D Martinez De Ponce

Represented By
James Geoffrey Beirne

Movant(s):

Golden 1 Credit Union

Represented By
Mirco J Haag

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

CONT... Ignacio Alejandro Ponce and Maria D Martinez De Ponce

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:19-14141 Rafael Gonzalez and Sonia Cardenas

Chapter 13

#12.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

MOVANT: RAFAEL GONZALEZ AND SONIA CARDENAS

EH ____

Docket 12

***** VACATED *** REASON: ADVANCED TO 6/6/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Joint Debtor(s):

Sonia Cardenas

Represented By
Henry D Paloci

Movant(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Sonia Cardenas

Represented By
Henry D Paloci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:19-14325 Martin Ontiveros

Chapter 13

#13.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 39628 Garin Drive, Murrieta, CA 92562

MOVANT: MARTIN ONTIVEROS

From: 6/4/19

EH ____

Docket 8

Tentative Ruling:

TENTATIVE RULING:

6/4/2019

Service: Proper
Opposition: None

Debtor has not presented clear and convincing evidence to rebut the presumption that this case was not filed in good faith. Specifically, the motion lacks detailed evidence regarding the change in personal financial circumstances. The Court is inclined to DENY Movant's request for an imposition of the automatic stay.

APPEARANCES REQUIRED. Debtor's attorney Allan Cate to personally appear.

Party Information

Debtor(s):

Martin Ontiveros

Represented By
Allan O Cate

Movant(s):

Martin Ontiveros

Represented By
Allan O Cate

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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10:00 AM

CONT... Martin Ontiveros

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

10:00 AM

6:19-11757 Virginia Ann Bennett

Chapter 13

#13.10 CONT Motion for Relief from Stay

MOVANT: CAPITAL AUTO FINANCIAL

From: 4/16/19, 5/23/19, 6/6/19

EH__

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Virginia Ann Bennett

Represented By
Lionel E Giron
Crystle Jane Lindsey

Movant(s):

Capital Auto Financial

Represented By
Gennady L Lebedev

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

2:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#14.00 CONT Motion for approval of the adequacy of the chapter 11 disclosure statement

From: 1/29/19, 3/5/19

Also #15

EH__

Docket 111

***** VACATED *** REASON: CONTINUED TO 8/20/19 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

Movant(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, June 11, 2019

Hearing Room 303

2:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#15.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 10/23/18, 11/27/18, 1/29/19, 3/5/19

Also #14

EH__

Docket 96

***** VACATED *** REASON: CONTINUED TO 8/20/19 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 11, 2019

Hearing Room 303

2:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#16.00 CONT Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Causes of Action .

MOVANT: ANDRZEJ LUCZYNSKI AND Z&M TRADING, INC.

From: 4/16/19, 4/30/19, 5/21/19

EH__

Docket 38

Tentative Ruling:

4/30/2019

Service: Proper
Opposition: Yes.

On February 19, 2019, Anthony Yue Ming Liu ("Debtor") filed a Chapter 11 voluntary petition. On Schedule F, Debtor listed Andrzej Luczynski ("Movant") as the holder of an unsecured claim of \$1,380,000 relating to a civil lawsuit.

On March 12, 2019, Movant filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for tortious exclusion of joint venturer, breach of fiduciary duty, breach of contract, and wrongful eviction. A state court hearing on Debtor's objections to the tentative decision and proposed judgment had been scheduled for February 20, 2019, but was ultimately postponed due to the instant bankruptcy filing. It appears from the contents of the motion that Movant is only requesting to have the state court enter judgment, thereby liquidating Movant's claim.

On April 2, 2019, Debtor filed his opposition. The crux of Debtor's opposition is that the relief from the automatic stay is unnecessary because Movant's claim has been effectively liquidated. Debtor notes that "[t]he only issue remaining is a determination of any costs and attorney's fees, which Debtor has attempted to review for

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CONT...

Anthony Yue Ming Liu

Chapter 11

reasonableness in hopes that the parties could avoid unnecessary litigation and expenses regarding the same." [Dkt. No. 49, pg. 4, lines 10-12]. On April 9, 2019, Movant filed a reply, effectively arguing that Debtor's opposition does not contain a legal basis upon which relief from stay could be denied.

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

- (1) Whether the relief will result in a partial or 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 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 good or proceeds in question; (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties; (8) whether the judgment claim arising from the foreign action is subject to equitable subordination; (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). In *Roger*, the Court further stated:

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the

**United States Bankruptcy Court
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2:00 PM

CONT...

Anthony Yue Ming Liu

Chapter 11

administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all.

Here, the *Curtis* factors weigh in favor of granting relief from the automatic stay. First, the relief requested would result in a complete resolution of the issues. Debtor's argument that relief from stay is not necessary to resolve the issue, because the issue could be resolved through the claim objection process in bankruptcy court, is not persuasive to the Court because it does not directly address the first *Curtis* factor and because, presumably, the state court is in a better position to assess the reasonableness of the fees and costs incurred in its own proceedings. Likewise, the second factor weighs in favor of the relief requested because the entry of a judgment in state court will not interfere with the administration of the bankruptcy estate. Debtor has not raised a plausible argument contending otherwise. A choice by Debtor to possibly incur attorney fees arguing the amount of Movant's fees and costs incurred in the state court proceeding does not constitute interference with the administration of the bankruptcy estate. Finally, the Court finds that the tenth through twelfth *Curtis* factors weigh in favor of granting relief from stay, because the state court proceeding progressed to the point where it was ready for trial, and the state court is in a better position to judge the reasonableness of the fees and costs incurred in its own proceeding.

The Court finds that the third through ninth *Curtis* factors are largely irrelevant in this situation and do not materially affect the Court's analysis. Additionally, the Court is not inclined to find that the instant bankruptcy was filed in bad faith. Movant's only argument made to support a bad faith finding is that the instant case was filed on the eve of the anticipated state court judgment. Noting that Debtor scheduled Movant's claim and does not appear to be attempting to undermine the state court proceeding, the Court cannot conclude that Debtor is acting on bad faith simply because he is attempting to satisfy Movant's claim through a Chapter 11 plan of reorganization.

The Court is inclined to GRANT request for relief pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a) stay. GRANT request under ¶ 2. DENY request for relief under ¶ 7 for lack of cause shown.

APPEARANCES REQUIRED

United States Bankruptcy Court
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Hearing Room 303

2:00 PM

CONT... Anthony Yue Ming Liu

Chapter 11

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Courtesy NEF

Represented By
Dawn M Coulson
Paul M Stoddard
Mark W Edelstein

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#17.00 CONT Motion to Compel Assumption or Rejection of Defaulted Unexpired Lease of Personal Property; for Provision of Adequate Protection and Maintenance of 11 U.S.C. § 365(d)(5) Payments; and for Relief from Stay in Event of Rejection of Lease

From: 6/4/19

Also #18

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Ford Motor Credit Company LLC

Represented By
Randall P Mroczynski

**United States Bankruptcy Court
Central District of California
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Tuesday, June 11, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#18.00 CONT Emergency Motion for Authorization to Use Cash Collateral and Provide Adequate Protection

From: 4/29/19

Also #17

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, June 11, 2019

Hearing Room 303

2:00 PM

6:19-13130 9 FINGERS INC

Chapter 11

#19.00 CONT Emergency Motion for Authorization to Use Cash Collateral and Provide Adequate Protection

From: 4/29/19

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

9 FINGERS INC

Represented By
Robert B Rosenstein

Movant(s):

9 FINGERS INC

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, June 11, 2019

Hearing Room 303

2:00 PM

6:19-13132 RIVERSIDE ACE HARDWARE INC.

Chapter 11

#20.00 CONT Emergency Motion for Authorization to Use Cash Collateral and Provide Adequate Protection

From: 4/29/19

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, June 11, 2019

Hearing Room 303

2:00 PM

6:19-13133 WILDOMAR ACE HARDWARE INC.

Chapter 11

#21.00 CONT Emergency Motion for Authorization to Use Cash Collateral and Provide Adequate Protection

From: 4/29/19

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

10:00 AM

6:19-12057 Hazel Mayorga

Chapter 7

#1.00 Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation re 2017 Honda Civic

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hazel Mayorga

Represented By
Marlin Branstetter

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, June 12, 2019

Hearing Room 303

10:00 AM

6:19-12021 Manuel Rigoberto Lopez

Chapter 7

#2.00 Pro se Reaffirmation Agreement Between Debtor and Americredit Financial Services, Inc. Dba GM Financial re 2018 Chevrolet Malibu

EH__

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Manuel Rigoberto Lopez Pro Se

Trustee(s):

Todd A. Frealy (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, June 12, 2019

Hearing Room 303

10:00 AM

6:19-11926 Amber Michelle Perez

Chapter 7

#3.00 Pro se Reaffirmation Agreement Between Debtor and Santander Consumer USA Inc. re 19 Hyundai Elantra

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Amber Michelle Perez

Pro Se

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Wednesday, June 12, 2019

Hearing Room 303

10:00 AM

6:19-10985 Antonio Cuen

Chapter 7

#4.00 Pro se Reaffirmation Agreement Between Debtor and OneMain Financial
re 2012 Chevy Malibu

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Antonio Cuen

Represented By
Neil R Hedtke

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

10:00 AM

6:19-10782 Michael Christopher VonPoppen

Chapter 7

#5.00 Reaffirmation Agreement Between Debtor and Bank of America, N.A. re 2013 KIA Optimas #3957

EH__

Docket 16

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Christopher VonPoppen

Represented By
Daniel King

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

11:00 AM

6:18-11594 Jorge Alberto Guzman Murillo and Wendy Marisol

Chapter 7

#6.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 33

Tentative Ruling:

TENTATIVE RULING

6/12/2019

Opposition: No
Service: Proper

The applications for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, and the application of Trustee, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 2,250.00
Trustee Expenses: \$ 123.76

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Jorge Alberto Guzman Murillo

Represented By
Andrew Nguyen

Joint Debtor(s):

Wendy Marisol Guzman

Represented By
Andrew Nguyen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

11:00 AM

CONT... Jorge Alberto Guzman Murillo and Wendy Marisol

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

11:00 AM

6:18-17431 James Michael Gorman

Chapter 7

#7.00 Motion For The Entry Of An Order, To The Extent Necessary, Extending The Deadline For The Insurance Commissioner Of The State Of Delaware, In His Capacity As The Receiver Of Ullico Casualty Company, To File A Complaint Objecting To The Dischargeability Of Debt Pursuant To 11 U.S.C. § 523(a)(2), (4), Or (6)

EH ____

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Michael Gorman

Represented By
Timothy W Combs

Movant(s):

Trinidad Navarro, Insurance

Represented By
Todd M Arnold

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

11:00 AM

6:19-12408 INNOCENTI, LLC

Chapter 7

#8.00 Amended Motion For Recission and Sanctions against First American Title Insurance Company and BCAT 2016-18 TT for willfull violation of the automatic stay under 11 U.S.C. Section 362(k)(1)

EH _____

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

INNOCENTI, LLC

Represented By
Rhonda Walker

Movant(s):

INNOCENTI, LLC

Represented By
Rhonda Walker
Rhonda Walker
Rhonda Walker

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, June 12, 2019

Hearing Room 303

11:00 AM

6:13-27611 Douglas Jay Roger

Chapter 7

**#9.00 CONT Objection to Claim #17 by Revere Financial Corporation
(Holding date)**

From: 10/1/14, 11/5/14, 12/3/14, 12/15/14, 1/28/15, 4/15/15, 7/22/15, 9/23/15,
10/21/15, 11/18/15, 12/16/15, 1/13/16, 3/2/16, 5/4/16, 6/1/16, 9/28/16, 11/16/16,
2/1/17, 2/16/17, 5/3/17, 6/14/17, 6/28/17, 9/20/17, 3/21/18, 6/27/18, 12/19/18,
3/27/19, 5/8/19

EH____

Docket 333

***** VACATED *** REASON: CONTINUED TO 7/31/19 AT 2:00 P.M.**

Tentative Ruling:

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

11:00 AM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

#10.00 CONT Status Conference re: Second Joint Motion and Moving Memorandum by Chapter 7 Trustee and Revere Financial Corporation for Order Approving Settlement between Chapter 7 Trustee and Revere Financial Corporation

From: 8/22/18, 1/16/19, 3/27/19

EH __

Docket 521

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Movant(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:18-17730 Sally Jeanne Way

Chapter 7

Adv#: 6:18-01238 Daff, Chapter 7 Trustee v. Alohrav Studios, Inc., a Delaware corporation

#11.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01238. Complaint by Charles W. Daff, Chapter 7 Trustee against Alohrav Studios, Inc., a Delaware corporation. (Charge To Estate). Verified Complaint for: 1) Quiet Title; 2) Cancellation of Instrument; and 3) Declaratory Relief Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

From: 2/6/19, 3/13/19, 4/10/19, 6/10/19

EH__

Docket 1

***** VACATED *** REASON: ORDER DISMISSING ADVERSARY
FILED 4/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sally Jeanne Way

Represented By
Summer M Shaw

Defendant(s):

Alohrav Studios, Inc., a Delaware

Pro Se

Plaintiff(s):

Charles W. Daff, Chapter 7 Trustee

Represented By
Brandon J Iskander

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Brandon J Iskander

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01057 Whitson et al v. Bastorous

#12.00 CONT Status Conference RE: Adversary case 6:18-ap-01057. Complaint by Blaine Whitson, Susan Whitson, Union Home Loan Profit Sharing Plan, Gurpaljit Deoll, Benny Winefeld, RM Holdings, LLC against Mark Bastorous. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury))

From: 5/9/18, 8/22/18, 10/31/18, 2/27/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

Blaine Whitson

Represented By
Benjamin Taylor

Susan Whitson

Represented By
Benjamin Taylor

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Mark Bastorous Chapter 7

Union Home Loan Profit Sharing Represented By
Benjamin Taylor

Gurpaljit Deoll Represented By
Benjamin Taylor

Benny Winefeld Represented By
Benjamin Taylor

RM Holdings, LLC Represented By
Benjamin Taylor

Trustee(s):

John P Pringle (TR) Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01061 Farah v. Bastorous et al

#13.00 CONT Status Conference RE: [45] Amended Complaint THIRD AMENDED COMPLAINT FOR NONDISCHARGEABILITY BASED ON 11 USC § 523(a)(2) (A) AND FOR FRAUD, DECEIT AND/OR FALSE PROMISE by Wayne W Suojanen on behalf of Mina Farah against Mark Bastorous. (RE: related document(s)1 Adversary case 6:18-ap-01061. Complaint by Mina Farah, Mark Bastorous against Mark Bastorous, Bernadette Shenouda. false pretenses, false representation, actual fraud),(65 (Dischargeability - other)),(14 (Recovery of money/property - other)),(13 (Recovery of money/property - 548 fraudulent transfer)),(01 (Determination of removed claim or cause)) filed by Plaintiff Mina Farah). (Suojanen, Wayne)

From: 3/27/19

EH__

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Mark Bastorous

Chapter 7

Thomas F Nowland

Plaintiff(s):

Mina Farah

Pro Se

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01062 Khalil v. Bastorous et al

#14.00 CONT Status Conference RE: [43] Amended Complaint THIRD AMENDED COMPLAINT FOR NONDISCHARGEABILITY BASED ON 11 USC § 523(a)(2) (A) AND FOR FRAUD, DECEIT AND/OR FALSE PROMISE by Wayne W Suojanen on behalf of Anis Khalil against Mark Bastorous. (RE: related document(s)1 Adversary case 6:18-ap-01062. Complaint by Anis Khalil against Mark Bastorous, Bernadette Shenouda. false pretenses, false representation, actual fraud)),(65 (Dischargeability - other)),(14 (Recovery of money/property - other)),(13 (Recovery of money/property - 548 fraudulent transfer)) filed by Plaintiff Anis Khalil). (Suojanen, Wayne)

From: 3/27/19

EH__

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Mark Bastorous

Chapter 7

Plaintiff(s):

Anis Khalil

Pro Se

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01063 Chen et al v. Bastorous et al

#15.00 CONT Status Conference re Amended Complaint by Douglas L Mahaffey on behalf of Chienan Chen, Chun-Wu Li against Bernadette Shenouda, 3 Columnar Ladera LLC, Mike Bareh, Mark Bastorous, MB Capital Group LLC.
(Dismissed as to Bernadette Shenouda 1/2/19)

From: 5/9/18, 6/6/18, 8/22/18, 10/31/18, 2/27/19

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

3 Columnar Ladera LLC

Pro Se

Mike Bareh

Represented By
Mirco J Haag
Jason E Goldstein

MB Capital Group LLC

Pro Se

Bernadette Shenouda

Represented By
Thomas F Nowland

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Mark Bastorous

Chapter 7

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

Chienan Chen

Represented By
Douglas L Mahaffey

Chun-Wu Li

Represented By
Douglas L Mahaffey

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01064 Gerges et al v. Bastorous et al

#16.00 CONT Status Conference Re: Adversary case 6:18-ap-01064. Complaint by Mona Gerges, Rafet Gerges, St. Mary Properties, LLC against Mark Bastorous, Bernadette Shenouda. 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

From: 5/9/18, 5/16/18, 7/11/18, 8/22/18, 10/31/18, 11/14/18, 1/30/19, 2/27/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/10/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

Mona Gerges

Represented By
Louis J Esbin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Mark Bastorous

Chapter 7

Rafat Gerges

Represented By
Louis J Esbin

St. Mary Properties, LLC

Represented By
Louis J Esbin

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01174 Pringle Ch 7 Trustee v. Shenouda et al

#17.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01174. Complaint by John P Pringle Ch 7 Trustee against Violete Shenouda, Anwar Wagdy. (Charge To Estate - \$350.00). Complaint: (1) To Avoid and Recover Fraudulent Transfers Pursuant to 11 U.S.C. Sections 548(a)(1)(A) and 550; (2) To Avoid and Recover Fraudulent Transfers Pursuant to 11 U.S.C. Sections 548(a)(1)(B) and 550; (3) To Avoid Transfer Pursuant to 11 U.S.C. Section 544(a)(3); (4) To Preserve Transfers Pursuant to 11 U.S.C. Section 551; (5) For Declaratory Relief; (6) For Imposition of Resulting Trust; (7) For Imposition of Constructive Trust; and (8) For Attorneys' Fees and Costs Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(72 (Injunctive relief - other)),(91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Goodrich, David)

From: 10/31/18, 2/27/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Violete Shenouda

Represented By
John J Lewis

Anwar Wagdy

Represented By
John J Lewis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Mark Bastorous

Chapter 7

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

John P Pringle Ch 7 Trustee

Represented By
David M Goodrich
Reem J Bello

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01222 Anderson, Chapter 7 Trustee v. Bobby Lee Associates, LLC

#18.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01222. Complaint by Karl T. Anderson, Chapter 7 Trustee against Bobby Lee Associates, LLC. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(14 (Recovery of money/property - other)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Polis, Thomas)

From: 1/16/19, 4/17/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Bobby Lee Associates, LLC

Represented By
Keith S Knochel

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01227 Anderson, Chapter 7 Trustee v. Wang

#19.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01227. Complaint by Karl T. Anderson, Chapter 7 Trustee against Ming Chung Wang. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Polis, Thomas)

From: 1/16/19, 4/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Ming Chung Wang

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01228 Anderson, Chapter 7 Trustee v. Via Cerro Partners, LP

#20.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01228. Complaint by Karl T. Anderson, Chapter 7 Trustee against Via Cerro Partners, LP. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Polis, Thomas)

From: 1/16/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Via Cerro Partners, LP

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

#21.00 CONT First Omnibus Objection of Debtor-In-Possession Allied Injury Management, Inc. Seeking Disallowance of Certain Proofs of Claim
(Holding Date)

From: 11/8/16, 12/6/16, 1/10/17, 3/7/17,4/4/17, 4/25/17, 6/27/17, 7/11/17,
9/12/17, 11/14/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18,
11/27/18, 2/26/19, 4/10/19

Also #22

EH__

Docket 83

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Movant(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

#22.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 6/7/16, 8/30/16, 9/14/16, 10/20/16, 10/25/16, 12/6/16, 1/10/17, 2/28/17, 3/28/17, 5/30/17, 8/29/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19, 4/10/19

Also #21

EH__

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:16-01225 Cambridge Medical Funding Group II, LLC v. Allied Injury Management,

#23.00 CONT Status Conference Re: Complaint by Cambridge Medical Funding Group II, LLC against Allied Injury Management, Inc., John C. Larson. 02 - Other e.g. other actions that would have been brought in state court if unrelated to bankruptcy

HOLDING DATE

From: 11/1/16, 12/6/16, 1/31/17, 2/28/17, 3/28/17, 5/30/17, 8/29/17, 10/3/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19, 4/10/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

John C. Larson

Pro Se

Plaintiff(s):

Cambridge Medical Funding Group

Represented By
Kenneth Hennesay

Trustee(s):

David M Goodrich (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT...

Allied Injury Management, Inc.

Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:16-01279 Allied Injury Management, Inc. v. One Stop Multi-Specialty Medical Group

#24.00 CONT Status Conference RE: [1] Adversary case 6:16-ap-01279. Complaint by Allied Injury Management, Inc. against One Stop Multi-Specialty Medical Group & Therapy, Inc., One Stop Multi-Specialty Medical Group, Inc., Nor Cal Pain Management Medical Group, Inc.. (Charge To Estate). Complaint for (1) Breach of Contract; (2) Account Stated; and (3) Unjust Enrichment Nature of Suit: (14 (Recovery of money/property - other))

From: 1/24/17, 3/7/17, 4/25/17, 6/27/17, 7/11/17, 9/12/17, 11/14/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19, 4/10/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

One Stop Multi-Specialty Medical

Represented By
Maria K Pum
Maria C Armenta

One Stop Multi-Specialty Medical

Represented By
Maria K Pum
Maria C Armenta

Nor Cal Pain Management Medical

Represented By
Maria K Pum
Maria C Armenta

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Plaintiff(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01109 David M. Goodrich, Chapter 11 Trustee v. Titanium Resource Company,

#25.00 CONT Status Conference Re: Complaint by David M. Goodrich, Chapter 11 Trustee against Titanium Resource Company, Inc., a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers and Adversary Proceeding Cover Sheet Nature of Suit: 12 - Recovery of money/property - 547 - preference,13 Recovery of money/property - 548 fraudulent transfer

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Titanium Resource Company, Inc., a

Represented By
Alan W Forsley

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01110 David M. Goodrich, Chapter 11 Trustee v. Larson, D.C., an individual

#26.00 CONT Status Conference Re: Complaint by David M. Goodrich, Chapter 11 Trustee against John Larson, D.C., an individual. (Charge To Estate). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers, Avoidance of Improper Distributions, and Unjust Enrichment and Adversary Proceeding Cover Sheet Nature of Suit: 12 - Recovery of money/property - 547 preference, 13- Recovery of money/property - 548 fraudulent transfer

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

John Larson, D.C., an individual

Represented By
Alan W Forsley

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01111 David M. Goodrich, Chapter 11 Trustee v. American Express Company, a

#27.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01111. Complaint by David M. Goodrich, Chapter 11 Trustee against American Express Company, a New York Corporation dba American Express, American Express Travel Related Services, Inc., a New York corporation dba American Express. (Charge To Estate). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19

Also #28

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Mark S Horoupian

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01111 David M. Goodrich, Chapter 11 Trustee v. American Express Company, a

#28.00 CONT Status Conference RE: **3rd Party Complaint** [4] Answer to Complaint and Affirmative Defenses to Plaintiff's Complaint, and Third-Party Claim Against John C. Larson, Third-Party Complaint by American Express Company, a New York Corporation dba American Express, American Express Travel Related Services, Inc., a New York corporation dba American Express against John C. Larson

From: 8/21/18, 10/30/18, 1/15/19, 4/10/19

Also #27

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth
Mark S Horoupian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01113 David M. Goodrich, Chapter 11 Trustee v. Netrova, Inc., a California

#29.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01113. Complaint by David M. Goodrich, Chapter 11 Trustee against Netrova, Inc., a California corporation. (Charge To Estate). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Werth, Steven)

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Netreva, Inc., a California

Represented By
Lazaro E Fernandez

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01114 David M. Goodrich, Chapter 11 Trustee v. The Blue Law Group, Inc, a

#30.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01114. Complaint by David M. Goodrich, Chapter 11 Trustee against The Blue Law Group, Inc, a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Werth, Steven)

From: 7/10/18, 2/27/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

The Blue Law Group, Inc, a

Represented By
Michael K Blue

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth
Mark S Horoupian

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01163 Revere Financial Corporation v. Burns

#31.00 CONT Status Conference RE: [1] Adversary case 6:16-ap-01163. Complaint by Revere Financial Corporation against Don C. Burns. (12 (Recovery of money/property - 547 preference)),(11 (Recovery of money/property - 542 turnover of property)),(14 (Recovery of money/property - other)),(91 (Declaratory judgment))

From: 8/31/16, 11/2/16, 1/11/17, 3/8/17, 6/7/17, 8/2/17, 8/23/17, 11/8/17, 1/31/18, 4/25/18, 2/27/18

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/31/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Defendant(s):

Don Cameron Burns

Represented By
Don C Burns

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT...

Douglas Jay Roger

Franklin R Fraley Jr

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#32.00 CONT Status Conference RE: [40] Amended Complaint (Second) by Franklin R Fraley Jr on behalf of Revere Financial Corporation against Bank of Southern California, N.A.. (Fraley, Franklin)

From: 7/11/18, 8/22/18, 2/27/19

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat Chapter 7

Adv#: 6:15-01307 Revere Financial Corporation v. OIC MEDICAL CORPORATION, a

#33.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01307. Complaint by A. Cisneros against OIC MEDICAL CORPORATION, a California corporation, LIBERTY ORTHOPEDIC CORPORATION, a California corporation, UNIVERSAL ORTHOPAEDIC GROUP, a California corporation. (Charge To Estate \$350). for Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))

From: 12/30/15, 2/24/16, 4/13/16, 6/22/16, 8/24/16, 11/2/16, 2/1/17, 3/8/17, 7/12/17, 9/13/17, 11/15/17, 2/14/18, 5/16/18, 7/25/18, 8/22/18, 10/31/18, 11/14/18, 12/12/18, 12/19/18, 3/27/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/31/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

OIC MEDICAL CORPORATION, a

Represented By
Misty A Perry Isaacson

LIBERTY ORTHOPEDIC

Represented By
Misty Perry Isaacson

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Douglas J Roger, MD, Inc., A Professional Corporat Chapter 7

Misty A Perry Isaacson

UNIVERSAL ORTHOPAEDIC

Represented By

Misty Perry Isaacson

Misty A Perry Isaacson

Plaintiff(s):

Revere Financial Corporation

Represented By

Franklin R Fraley Jr

Trustee(s):

Arturo Cisneros (TR)

Represented By

Chad V Haes

D Edward Hays

Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

6:09-37495 Sultan Fakhoury

Chapter 7

Adv#: 6:19-01067 Fakhoury et al v. HAZMAT TSDf INC.

#34.00 CONT Motion for Enforcement of Bankruptcy Discharge Injunction and to Quiet Title

From: 5/22/19, 5/29/19

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sultan Fakhoury

Represented By
Gary Swanson

Defendant(s):

HAZMAT TSDf INC.

Pro Se

Joint Debtor(s):

Catherine M Fakhoury

Represented By
Gary Swanson

Movant(s):

Sultan Fakhoury

Represented By
Albert W Marchetti

Catherine M Fakhoury

Represented By
Albert W Marchetti

Plaintiff(s):

Sultan Fakhoury

Represented By
Albert W Marchetti

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 12, 2019

Hearing Room 303

2:00 PM

CONT... Sultan Fakhoury

Chapter 7

Catherine M Fakhoury

Represented By
Albert W Marchetti

Trustee(s):

Patricia J Zimmermann (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 19, 2019

Hearing Room 303

2:00 PM

6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01100 Zamucen & Curren LLP v. Johnson

#1.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01100. Complaint by Zamucen & Curren LLP against Vance Zachary Johnson . (d),(e))

From: 7/31/18, 10/3/18, 1/9/19, 1/30/19, 2/27/19

EH__

Docket 1

***** VACATED *** REASON: RESCHEDULED TO 7/3/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Zamucen & Curren LLP

Represented By
Patricia J Grace

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:17-11132 Jose V Arredondo

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5754 Felspar Street, Riverside, CA 92509-4903

MOVANT: WILMINGTON SAVINGS FUND SOCIETY, FSB

From: 5/28/19

EH__

Docket 47

***** VACATED *** REASON: CONTINUED TO 7/30/19 AT 10 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose V Arredondo

Represented By
Benjamin A Yrungaray

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kelsey X Luu
Sean C Ferry
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:17-12700 Eugene Alexis Padilla

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 420 Fenmore Drive, Barstow, CA 92311

MOVANT: FREEDOM MORTGAGE CORPORATION

EH ____

Docket 39

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: Yes.

Parties to inform the Court as to the status of the cure of the arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Eugene Alexis Padilla

Represented By
John F Brady

Movant(s):

Freedom Mortgage Corporation, its

Represented By
Kristin A Zilberstein
Merdaud Jafarnia
Nancy L Lee
Ciro Mestres
Melissa Licker

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Eugene Alexis Padilla

Jennifer C Wong

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:18-10852 Gilberto Linares

Chapter 13

#3.00 CONT Motion for Relief from Stay 1115 North Park Ave, Rialto, California 92376

MOVANT: U.S. BANK NATIONAL ASSOCIATION

From: 5/21/19

EH__

Docket 62

*** VACATED *** REASON: STIP/ORDER ENTERED 6/24/19

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of the cure of the post-conference arrears and the negotiations on an adequate protection agreement.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gilberto Linares

Represented By
Jaime A Cuevas Jr.

Movant(s):

U.S. BANK NATIONAL

Represented By
Sean C Ferry
Theron S Covey

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Gilberto Linares

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:18-11924 Don Gurule and Elaine Gurule

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13343 Chaparral Road, Whitewater, CA 92282

MOVANT: NATIONSTAR MORTGAGE LLC

EH ____

Docket 54

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of the arrears, as well as negotiations as to an adequate protection order, if needed.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Don Gurule

Represented By
Christopher Hewitt

Joint Debtor(s):

Elaine Gurule

Represented By
Christopher Hewitt

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Don Gurule and Elaine Gurule

Chapter 13

Angie M Marth
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:18-18557 Gema Beniukoff and Ruben Sotelo

Chapter 13

#5.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 FORD FIESTA, VIN #: 3FADP4EJ7FM176223

MOVANT: REGIONAL ACCEPTANCE CORPORATION

From: 6/11/19

EH__

Docket 32

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/18/19

Tentative Ruling:

6/11/2019

Service is Proper
Opposition: Yes

Movant to confirm that Debtors have cured all arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gema Beniukoff

Represented By
Amanda G Billyard

Joint Debtor(s):

Ruben Sotelo

Represented By
Amanda G Billyard

Movant(s):

REGIONAL ACCEPTANCE

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Gema Beniukoff and Ruben Sotelo

Chapter 13

Michael D Vanlochem

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:18-19093 Yolanda Williams

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11159 Essex Ave, Montclair, CA 91763

MOVANT: U.S. BANK NATIONAL ASSOCIATION

EH__

Docket 28

*** VACATED *** REASON: ORDER ENTERED 6/18/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yolanda Williams

Represented By
Dana Travis

Movant(s):

U.S. Bank National Association, as

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:18-20644 Terry E Crossley and Janell Crossley

Chapter 13

#7.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1428 North San Diego Place, Ontario, CA 91764

MOVANT: EAI CAPITAL LLC

From: 6/4/19

EH__

Docket 38

Tentative Ruling:

Tentative Ruling:

6/4/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the asserted cure of the post-petition arrears and the negotiations regarding an adequate protection agreement.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Terry E Crossley

Represented By
Christopher J Langley

Joint Debtor(s):

Janell Crossley

Represented By
Christopher J Langley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Terry E Crossley and Janell Crossley

Chapter 13

Movant(s):

EAI CAPITAL LLC

Represented By
Julian K Bach

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-10052 Dwayne J. Williams and Dana S. Williams

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 Chrysler 300

MOVANT: JPMORGAN CHASE BANK, N.A.

EH ____

Docket 37

***** VACATED *** REASON: STIP/ORDER ENTERED 6/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dwayne J. Williams

Represented By
Michael Jay Berger

Joint Debtor(s):

Dana S. Williams

Represented By
Michael Jay Berger

Movant(s):

JPMorgan Chase Bank, N.A.

Represented By
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-11851 Richard Mills, Jr. and April Evette Humphrey

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 1930 W College Avenue Apt 111, San Bernardino

MOVANT: BROADSTONE INVESTORS LLC

EH__

Docket 22

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Mills Jr.

Represented By
Nicholas M Wajda

Joint Debtor(s):

April Evette Humphrey

Represented By
Nicholas M Wajda

Movant(s):

Broadstone Investors LLC

Represented By
Helen G Long

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-11919 Ramiro Delgado Flores

Chapter 7

#10.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 8083 Surrey Lane, Alta Loma, California 91701

MOVANT: U.S. BANK NATIONAL ASSOCIATION

From: 5/28/19

EH__

Docket 25

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: Yes

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1). GRANT to movant to proceed under applicable nonbankruptcy law to enforce its remedies. GRANT waiver of 14-day stay prescribed by FRBP 4001(a)(3). GRANT the Debtor be defined as a borrower pursuant to Cal. Civ. Code § 2920.5(c) (2)(C).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ramiro Delgado Flores

Represented By
Andrew S Bisom

Movant(s):

U.S. Bank National Association, as

Represented By
Darren J Devlin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Ramiro Delgado Flores

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-12184 Wilma Jean Curran

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 42635 Adalin Way, Palm Desert, CA 92211

MOVANT: TOWD POINT MASTER FUNDING TRUST 2019-PM27, US BANK N.A.

EH ____

Docket 14

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to enter into a potential forbearance, loan modification, refinance, or other workout agreement. GRANT relief from Rule 4001 stay. GRANT request that Debtor be defined as a borrower as defined under Cal. Civ. Code § 2920.5(c)(2)(C) for the purposes of Cal. Civ. Code § 2923.5.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

-

Party Information

Debtor(s):

Wilma Jean Curran

Represented By
Paul M Stoddard

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Wilma Jean Curran

Chapter 7

Movant(s):

Towd Point Master Funding Trust

Represented By
Erica T Loftis Pacheco

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-12231 Jose Carlos Pina

Chapter 13

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5311 Beach Street, Jurupa Valley, CA 92509

MOVANT: REHABBERS FINANCIAL, INC.

CASE DISMISSED 6/6/19

EH ____

Docket 21

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

As this case has been dismissed, there is no automatic stay, so the Court will DENY relief from the automatic stay pursuant to § 362(d)(1), DENY request under ¶ 2 to enforce remedies to repossess and sell the property, DENY request under ¶3 to potentially enter into workout, modification, forbearance, or other agreement with Debtor, and DENY relief from the § 1301(a) co-debtor stay. However, the Court will GRANT relief from Rule 4001 stay and GRANT relief under § 362(d)(4), meaning that the order, if properly recorded, will be binding in any other case under this title purporting to affect the property, filed not later than 2 years after the date of entry of the order by the Court. DENY request for adequate protection as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jose Carlos Pina

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Jose Carlos Pina

Chapter 13

Movant(s):

Rehabbers Financial, Inc. dba Real

Represented By
Mark D Estle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-12408 INNOCENTI, LLC

Chapter 7

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 17218 Boca Raton Lane, Poway, CA 92064

MOVANT: BAYVIEW LOAN SERVICING, LLC

CASE DISMISSED 6/20/19

EH ____

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

INNOCENTI, LLC

Represented By
Rhonda Walker

Movant(s):

Bayview Loan Servicing, LLC., as

Represented By
Gilbert R Yabes

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-12633 David Jorge Gonzalez, Jr.

Chapter 7

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 HONDA ACCORD, VIN: 1HGC R2F3 2GA0 08221

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH ____

Docket 10

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

The Court is inclined to CONTINUE the matter to July 30, 2019, for a hearing on the reaffirmation agreement between the parties to the loan.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David Jorge Gonzalez Jr.

Represented By
Carey C Pickford

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian
Alex Pettigrew

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... David Jorge Gonzalez, Jr.

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-12808 Luis A Quintero

Chapter 7

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Nissan Sentra

MOVANT: BANK OF THE WEST

EH__

Docket 14

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Luis A Quintero

Represented By
Paul Y Lee

Movant(s):

BANK OF THE WEST

Represented By
Mary Ellmann Tang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Luis A Quintero

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-12966 Hector Castillo Yorba

Chapter 7

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Jeep Cherokee VIN 1C4PJLCB3KD241346

MOVANT: SANTANDER CONSUMER USA

EH ____

Docket 12

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Hector Castillo Yorba

Represented By
Todd L Turoci

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Hector Castillo Yorba

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-13314 Tamra Gillian Rehak

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Jayco M-4212 Toy Hauler

MOVANT: LBS FINANCIAL CREDIT UNION

EH ____

Docket 16

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. GRANT relief from the § 1301 co-debtor stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Tamra Gillian Rehak

Represented By
Norma Duenas

Movant(s):

LBS Financial Credit Union

Represented By
Karel G Rocha

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Tamra Gillian Rehak

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-13415 Diane Tucker

Chapter 13

#18.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 20104 Strathern Street, Winnetka Area, CA 91306

MOVANT: BAYVIEW LOAN SERVING, LLC

EH__

Docket 22

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT relief under § 362(d)(4) due to the repeated transfers of the interest in the property without creditor approval and multiple bankruptcy filings affecting the Property. GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. GRANT request for the order to be binding on any bankruptcy case commenced by or against a debtor claiming an interest in the property for 180 days after the entry of the order. DENY request that the order be binding in any future bankruptcy case without further notice for lack of cause shown. Deny request in ¶14 as no specific relief requested.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Diane Tucker

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Diane Tucker

Chapter 13

Movant(s):

BAYVIEW LOAN SERVICING,

Represented By
Edward G Schloss

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-13562 Felipe E. Gamboa and Yanet Gamboa

Chapter 7

#19.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 LEXUS IS350

MOVANT: TOYOTA LEASE TRUST

EH ____

Docket 9

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Felipe E. Gamboa

Represented By
Christopher J Langley

Joint Debtor(s):

Yanet Gamboa

Represented By
Christopher J Langley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Felipe E. Gamboa and Yanet Gamboa

Chapter 7

Movant(s):

Toyota Lease Trust

Represented By

Erica T Loftis Pacheco

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-13588 Fernando Fullecido Fabrigas, Jr.

Chapter 7

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Dodge Durango VIN 1C4RDHDG8HC724658

MOVANT: SANTANDER CONSUMER USA

EH ____

Docket 8

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Fernando Fullecido Fabrigas Jr.

Represented By
Todd L Turoci

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Fernando Fullecido Fabrigas, Jr.

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-13744 Teresa Lopez

Chapter 7

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 HONDA ACCORD, VIN: 1HGC V1F3 2JA2 16094

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH ____

Docket 8

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Teresa Lopez

Represented By
Luis Aguilar

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

CONT... Teresa Lopez

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-13855 Noel Guerrero Avalos and Veronica Cellular De Avalos

Chapter 13

#22.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Toyota Corolla

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH ____

Docket 14

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

APPEARANCES REQUIRED

Party Information

Debtor(s):

Noel Guerrero Avalos

Represented By
Todd L Turoci

Joint Debtor(s):

Veronica Cellular De Avalos

Represented By
Todd L Turoci

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-14173 Francine McGwire

Chapter 13

#23.00 Notice of Motion and 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)

MOVANT: VEROS CREDIT, LLC

EH ____

Docket 10

***** VACATED *** REASON: CASE DISMISSED 6/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Francine McGwire

Pro Se

Trustee(s):

Rod (MH) Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-14325 Martin Ontiveros

Chapter 13

#24.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 39628 Garin Drive, Murrieta, CA 92562

MOVANT: MARTIN ONTIVEROS

From: 6/4/19, 6/11/19

EH ____

Docket 8

Tentative Ruling:

TENTATIVE RULING:

6/4/2019

Service: Proper
Opposition: None

Debtor has not presented clear and convincing evidence to rebut the presumption that this case was not filed in good faith. Specifically, the motion lacks detailed evidence regarding the change in personal financial circumstances. The Court is inclined to DENY Movant's request for an imposition of the automatic stay.

APPEARANCES REQUIRED. Debtor's attorney Allan Cate to personally appear.

Party Information

Debtor(s):

Martin Ontiveros

Represented By
Allan O Cate

Movant(s):

Martin Ontiveros

Represented By
Allan O Cate

**United States Bankruptcy Court
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10:00 AM

CONT... Martin Ontiveros

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, June 25, 2019

Hearing Room 303

10:00 AM

6:19-14623 Erlwin E Williams

Chapter 13

#25.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 717 Juniper St, Hemet, CA 92545

MOVANT: ERLWIN E. WILLIAMS

EH__

Docket 14

Tentative Ruling:

TENTATIVE RULING:

6/25/2019

Service is Proper
Opposition: None (Shortened Notice)

Debtor has not presented sufficient evidence to rebut the presumption that the case was not filed in good faith. Specifically, ¶¶ 7 & 8 of the supplemental declaration do not provide detail as to what caused the payment failure in the first place, and how it has been remedied.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Erlwin E Williams

Represented By
Laleh Ensafi

Movant(s):

Erlwin E Williams

Represented By
Laleh Ensafi

**United States Bankruptcy Court
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10:00 AM

CONT... Erlwin E Williams

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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

6:19-14950 Genaro Flores and Salome Flores

Chapter 13

#26.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 31947 Lodge House Ct., Temecula, Ca 92592, and 9901 Variel Ave. #8, Chatsworth, CA 91311

MOVANT: GENARO FLORES AND SALOME FLORES

EH__

Docket 13

Tentative Ruling:

TENTATIVE RULING:

6/25/2019

Service is Proper (shortened notice).
Opposition: No

The Court is inclined to find that Debtors have shown clear and convincing evidence to rebut the presumption of bad faith, and, as such, is inclined to GRANT their request for continuance of the automatic stay under 11 U.S.C. § 362(c)(3)(B).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Genaro Flores

Represented By
Todd L Turoci

Joint Debtor(s):

Salome Flores

Represented By
Todd L Turoci

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

CONT... Genaro Flores and Salome Flores

Chapter 13

Movant(s):

Genaro Flores

Represented By
Todd L Turoci

Salome Flores

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:19-15166 Eddie L Fitz

Chapter 13

#26.10 Amended Motion (related document(s): 11 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 1712 N. Barranca Ave., Ontario, CA 91764

MOVANT: HOD REAL ESTATE, LLC

EH__

Docket 18

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Improper
Opposition: None

Movant has not provided telephonic notice to the Debtor, as required by the Court's self-calendaring rules.

Subject to a brief continuance to allow for proper telephonic notice, the Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)(1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. GRANT request that a designated law enforcement officer may evict the Debtor, and any other occupants, from the property, regardless of any future bankruptcy filing concerning the Property, for a period of 180 days after the hearing of this motion, without further notice. GRANT request that the order is binding and effective in any bankruptcy case commenced by, or against, any debtor who claims any interest in the Property for a period of 180 days after the hearing of this motion, without further notice. GRANT request that the order is binding in any other bankruptcy case purporting to affect the Property for not later than 2 years after the date of the entry of the order, though a Debtor may move for relief from the order based on changed circumstances or for good cause shown. GRANT request that the

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CONT... Eddie L Fitz Chapter 13

order be 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 Property.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Eddie L Fitz

Represented By
Peter L Nisson

Movant(s):

NOD Real Estate, LL

Represented By
Joseph Trenk

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

10:00 AM

6:19-15166 Eddie L Fitz

Chapter 13

#26.20 Hearing re Lessor's Objection to Debtor's Certification And/Or Debtor's Further Certification Concerning Residential Property

EH__

Docket 17

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddie L Fitz

Represented By
Peter L Nisson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:17-15717 AMJ Plumbing Specialists Corp.

Chapter 11

#27.00 CONT Post Confirmation Status Conference

From: 12/18/18, 4/16/19, 5/28/19

Also #28

EH__

Docket 161

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

AMJ Plumbing Specialists Corp.

Represented By
David Lozano

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:17-15717 AMJ Plumbing Specialists Corp.

Chapter 11

#28.00 CONT Application for Compensation First Amended Application For Compensation And Reimbursement Of Final Fees And Expenses Of Lozano Law Center, Inc.; Declarations Of David Lozano, Esq. And Joe Ruvalcava Support There for David Lozano, General Counsel, Period: 7/7/2017 to 11/27/2018, Fee: \$107196.25, Expenses: \$1128.12.

From: 5/21/19

Also #27

EH__

Docket 186

Tentative Ruling:

Application: \$90,837 in fees (\$103,367.20 fees performed post-petition, minus \$12,530.25 remaining advanced fee payment), \$1,128.12 in expenses.

Opposition: No.

Analysis: 11 U.S.C. § 330(a)(3) (2005) provides factors to be considered in determining the reasonableness of requested compensation.

Tentative:

On July 7, 2017, AMJ Plumbing Specialists Corp. ("Debtor") filed a Chapter 11 voluntary petition. On October 10, 2017, the Court approved the employment application of Lozano Law Center, Inc. ("Applicant") to serve as counsel to Debtor. Debtor's first amended disclosure statement was approved on June 6, 2018, and Debtor's first amended plan of reorganization was confirmed on August 3, 2018. No interim fee applications have been filed by Applicant.

On November 5, 2018, Applicant filed an application for compensation, requesting allowance and payment of \$119,279 in fees (less a retainer of \$26,000)

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11:00 AM

CONT... AMJ Plumbing Specialists Corp.

Chapter 11

and \$988.60 in expenses. The Court denied this application without prejudice on November 30, 2018 due to lumping and Applicant's request for fees for work done before Debtor had filed their petition. Applicant subsequently moved the Court on December 14, 2018 to amend the October 10, 2017 employment order to retroactively move their date of initial employment to pre-petition. However, this meant that Applicant was stating that Debtor owed them legal fees for work done prior to petition, meaning that Applicant was a creditor of Debtor. On December 19, 2018, the U.S. Trustee ("UST") filed their opposition to Applicant's motion to amend the initial employment order.

In the UST's opposition, they argued that Applicant was ineligible for any compensation, as Applicant had a prepetition claim against Debtor, due to the unpaid prepetition legal fees owed, meaning that Applicant was an interested party in the matter and thus ineligible to serve as an officer of Debtor's estate under 11 U.S.C. § 327(a). In addition, UST also argued that Applicant's employment disclosures were inaccurate, as Applicant had sworn in its disclosures that they were not a creditor of the estate or owed any funds by the estate.

On April 30, 2018, Applicant voluntarily dismissed their motion to modify their employment order and filed their current application for compensation and reimbursement of fees and expenses. The U.S. Trustee has not filed an opposition to the current application and has not renewed their argument that Applicant was ineligible to receive any compensation in the matter. On May 21, 2019, the Court tentatively approved the application in the reduced amount of \$75,940 in fees and \$562.22 in expenses. However, the Court gave leave to applicant to file a supplement to their application, explaining why the reduced or struck fee requests should be reinstated. They did so on June 4, 2019.

1. Whether Applicant is entitled to compensation in the first place.

The Court has discretion under 11 U.S.C. § 328(c) to independently review, and potentially deny, allowance of compensation for any professional person if, at any time during the professional's employment under § 327, the professional was not a disinterested person, or held an interest adverse to the interest of the estate with the respect to the matter on which they were employed. The Court does agree with the UST that Applicant's \$3,829.00 claim against Debtor for legal work

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CONT...

AMJ Plumbing Specialists Corp.

Chapter 11

performed pre-petition rendered Applicant into an interested person in the matter, with their interest being adverse to the interests of the estate. However, the Court, upon review of the work performed by Applicant, and taking into account the small amount of Applicant's pre-petition claim, the UST's decision not to renew their objection to Applicant's compensation, and Applicant's waiver of the pre-petition fees, finds that Applicant's adverse interest does not rise to the level where denial of compensation is warranted.

2. Whether the compensation request is reasonable.

Pursuant to 11 U.S.C. § 330(a)(1), the court may award reasonable compensation for actual, necessary services. The court has an independent duty to review the fee application in the absence of objections. *See* 11 U.S.C. § 330(a)(2). The court "will not indulge in extensive labor and guesswork to justify a fee for an attorney who has not done so himself." *In re Taylor*, 66 B.R. 390 (Bankr. W.D. Pa. 1986).

11 U.S.C. § 330(a)(3) provides factors to be considered in determining the reasonableness of requested compensation. These factors include time spent, rates charged, necessity of the service, reasonableness of the service, expertise of attorney, and comparable market rates.

The Court first begins by noting that Applicant's services for Debtor appear to have been, overall, generally reasonable and necessary. Applicant's work resulted in Debtor's Chapter 11 reorganization plan being confirmed, as well as the striking or reduction of several major claims against Debtor. Applicant's rates were also reasonable, when compared to comparable market rates and the expertise of the attorneys involved. In addition, Debtor has declared their satisfaction with Applicant's services. However, there were several issues with the application as first stated, with some of them having been resolved by the Applicant's supplemental, and some of them remaining.

a. Deficiencies caused by a lack of a proper narrative statement.

The original application's narrative statement of the services rendered during this case, as required by LBR 2016-1(a)(D), was deficient. This resulted in a denial of \$8,051 in fees for 27 time entries, totaling 18.4 hours, relating to Ferguson

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Supplies, a major vendor for Applicant. However, the Court finds that Applicant has properly explained the source of those fees in their supplemental brief, by explaining why Ferguson was such a critical vendor to Debtor, the difficult nature of the work in bringing Ferguson back to performing on its day to day supplying of Debtor, and the successful resolution of the matter, resulting in Debtor being able to maintain its business. The Court is thereby inclined to now GRANT the \$8,051 request in fees originally denied.

b. Excessive time expenditure.

In addition, the Court had found issue with the seemingly excessive time spent on some of the entries, as well as the use of attorneys to perform what appears to be clerical work in others. These entries included:

8/11/2017: \$3,825 combined request for nine hours of work, four and a half hours for Frank Alverado and David Lazano each, concerning the amending of multiple schedules, the Debtor's statements of prior cases and financial affairs as well as their summary of assets and liabilities (ECF 48). The Court originally reduced this amount by 33%. However, the Court finds that Applicant's supplemental information has sufficiently explained why this took so long, given the need to review multiple new lawsuits that had to be listed, and the complexity of listing property that had been stolen. The Court is now inclined to GRANT the \$3,825 in full.

8/17/2017, 8/18/2017, 8/21/2017, 8/22/2017: Four time entries requesting \$1,596 for four hours of work concerning the preparation and filing of Applicant's motion to employ Applicant as a professional, as well as declaration in support thereof (ECF 58). In light of the relatively short and simple nature of the motion and declaration, the Court finds the time spent here excessive, and is inclined to reduce the fees requested by 50% to \$798. Applicant has submitted to this reduction.

8/28/2017, 8/29/2017: Two times entries requesting \$1,424 for 3.56 hours of work for brief 3-page motion for joint check agreement, simple declaration in support thereof, and notice of hearing (ECF 59-60). The Court originally reduced the fees here by 33% to \$940. Upon review of Applicant's supplemental motion, explaining the difficulties in preparing the agreement, given the critical

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importance of Ferguson supplies to the Debtor and the imbalance in negotiating power between the two companies, the Court is now inclined to GRANT the request for \$1,424 in full.

6/8/2018: \$440 request for a 2-page draft order approving amended Disclosure Statement and Plan (ECF 139). The Court is inclined to reduce the fees here by 50% to \$220 due to the excessive time spent. Applicant has submitted to this reduction.

6/11/2018: \$880 request for attorney work preparing ballots and packages for mailing, as well as service of objection bar date (ECF 155). Upon review of the ballots, the work here appears to be of clerical nature, not that which would require the full services of an attorney. The Court is inclined to reduce the fees requested by 50% to \$440. Applicant has submitted to this reduction.

6/29/2018: \$360 request for preparing filing 2-page proof of service for ballots, order, plan and disclosure statement (ECF 149). In view of the work required, the Court finds the time excessive and is inclined to reduce this request by \$260 to \$100. Applicant has submitted to this reduction.

7/17/2018: \$944 request for completing and filing the summary of completed ballots (ECF 155). In view of the excessive time spent on a simple matter, the Court is inclined to reduce this request by \$744 to \$200. Applicant has submitted to this reduction.

The Court is now inclined to reduce the fees requested by Applicant by \$2,362 for excessive time spent.

c. Severely flawed or non-fully-performed services.

In a time entry dated **6/11/2018**, Applicant requests \$1,000 for a "supplemental to motion seeking approval of disclosure statement and plan with new dates" which appears to have never been filed with the Court. Instead, Applicant seems to have filed a wholly different motion for an order confirming the plan on July 17, 2018, which has been accounted for in different time entries. The Court is inclined to deny this request for fees. Applicant has submitted to this reduction.

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Next, Applicant requests \$1,600 for four-time entries dated **10/17/2018, 11/05/2018, 11/27/2018**, related to the preparation and filing of their fee applications. In light of the severely flawed nature of Applicant's original fee application, the Court was inclined to deny this request. In the supplemental brief, Applicant requested a 50% reduction in the request, instead of a total denial, given that Applicant had not requested any fees for the subsequent fee application. The Court is still inclined to DENY this request in whole, given the serious problems in not only the original application, but also the first amended application.

The Court remains inclined to reduce the fees requested by Applicant by \$2,600 for services that were either severely flawed, or do not appear to have been fully performed.

In total, the Court, in view of the materials submitted before it at this time, is inclined to reduce Applicant's fee request by \$4,962 to \$85,875.

d. Compensation for expenses

Finally, the Court originally took issue with Applicant's request for compensation of \$1,128.12 in expenses, as they had only provided a detailed accounting for \$562.22 in expenses. Upon explanation within Applicant's supplemental brief regarding the remaining expenses, and their provided table, the Court is inclined to GRANT the request for expenses of \$1,128.12 in its entirety.

3. Conclusion

The Court is now inclined to GRANT Applicant's request for compensation and reimbursement for fees and expenses in the reduced amount of \$85,875 in fees, and \$1,128.12 in expenses.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

AMJ Plumbing Specialists Corp.

Represented By

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David Lozano

Movant(s):

AMJ Plumbing Specialists Corp.

Represented By

David Lozano

David Lozano

David Lozano

David Lozano

David Lozano

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2:00 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#29.00 CONT Motion RE: Objection to Claim Number 10 by Claimant Pacific Steel Group

From: 4/30/19, 5/7/19

Also #30

EH__

Docket 228

***** VACATED *** REASON: CONTINUED TO 7/1/19 AT 9:30 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

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6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#30.00 Motion for Order Directing the Application of FRBP 7068 in Claim Objection Proceeding

Also #29

EH__

Docket 271

***** VACATED *** REASON: CONTINUED TO 7/1/19 AT 9:30 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

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6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#31.00 CONT Motion RE: Objection to Claim Number 37 by Claimant Franchise Tax Board

From: 5/7/19

EH__

Docket 248

*** VACATED *** REASON: CONTINUED TO 7/30/19 AT 2:00 P.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

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2:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#32.00 CONT Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Causes of Action .

MOVANT: ANDRZEJ LUCZYNSKI AND Z&M TRADING, INC.

From: 4/16/19, 4/30/19, 5/21/19, 6/11/19

Also #33

EH__

Docket 38

Tentative Ruling:

4/30/2019

Service: Proper
Opposition: Yes.

On February 19, 2019, Anthony Yue Ming Liu ("Debtor") filed a Chapter 11 voluntary petition. On Schedule F, Debtor listed Andrzej Luczynski ("Movant") as the holder of an unsecured claim of \$1,380,000 relating to a civil lawsuit.

On March 12, 2019, Movant filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for tortious exclusion of joint venturer, breach of fiduciary duty, breach of contract, and wrongful eviction. A state court hearing on Debtor's objections to the tentative decision and proposed judgment had been scheduled for February 20, 2019, but was ultimately postponed due to the instant bankruptcy filing. It appears from the contents of the motion that Movant is only requesting to have the state court enter judgment, thereby liquidating Movant's claim.

On April 2, 2019, Debtor filed his opposition. The crux of Debtor's opposition is that the relief from the automatic stay is unnecessary because Movant's claim has been

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effectively liquidated. Debtor notes that "[t]he only issue remaining is a determination of any costs and attorney's fees, which Debtor has attempted to review for reasonableness in hopes that the parties could avoid unnecessary litigation and expenses regarding the same." [Dkt. No. 49, pg. 4, lines 10-12]. On April 9, 2019, Movant filed a reply, effectively arguing that Debtor's opposition does not contain a legal basis upon which relief from stay could be denied.

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

- (1) Whether the relief will result in a partial or 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 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 good or proceeds in question; (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties; (8) whether the judgment claim arising from the foreign action is subject to equitable subordination; (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). In *Roger*, the Court further stated:

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit

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litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all.

Here, the *Curtis* factors weigh in favor of granting relief from the automatic stay. First, the relief requested would result in a complete resolution of the issues. Debtor's argument that relief from stay is not necessary to resolve the issue, because the issue could be resolved through the claim objection process in bankruptcy court, is not persuasive to the Court because it does not directly address the first *Curtis* factor and because, presumably, the state court is in a better position to assess the reasonableness of the fees and costs incurred in its own proceedings. Likewise, the second factor weighs in favor of the relief requested because the entry of a judgment in state court will not interfere with the administration of the bankruptcy estate. Debtor has not raised a plausible argument contending otherwise. A choice by Debtor to possibly incur attorney fees arguing the amount of Movant's fees and costs incurred in the state court proceeding does not constitute interference with the administration of the bankruptcy estate. Finally, the Court finds that the tenth through twelfth *Curtis* factors weigh in favor of granting relief from stay, because the state court proceeding progressed to the point where it was ready for trial, and the state court is in a better position to judge the reasonableness of the fees and costs incurred in its own proceeding.

The Court finds that the third through ninth *Curtis* factors are largely irrelevant in this situation and do not materially affect the Court's analysis. Additionally, the Court is not inclined to find that the instant bankruptcy was filed in bad faith. Movant's only argument made to support a bad faith finding is that the instant case was filed on the eve of the anticipated state court judgment. Noting that Debtor scheduled Movant's claim and does not appear to be attempting to undermine the state court proceeding, the Court cannot conclude that Debtor is acting on bad faith simply because he is attempting to satisfy Movant's claim through a Chapter 11 plan of reorganization.

The Court is inclined to GRANT request for relief pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a) stay. GRANT request under ¶ 2. DENY request for relief under ¶ 7 for lack of cause shown.

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APPEARANCES REQUIRED

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Courtesy NEF

Represented By
Dawn M Coulson
Paul M Stoddard
Mark W Edelstein

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6:19-11267 Anthony Yue Ming Liu

Chapter 11

#33.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 3/26/19

Also #32

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

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6:18-20003 LC Stahl LLC

Chapter 11

#34.00 Motion for approval of chapter 11 disclosure statement

Also #35

EH__

Docket 97

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

Movant(s):

LC Stahl LLC

Represented By
Stuart J Wald

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6:18-20003 LC Stahl LLC

Chapter 11

#35.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report
(HOLDING DATE)

From: 1/8/19, 2/26/19, 3/5/19, 4/10/19, 5/7/19

Also #34

EH ____

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

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Wednesday, June 26, 2019

Hearing Room 303

10:00 AM

6:19-11926 Amber Michelle Perez

Chapter 7

#1.00 CONT Pro se Reaffirmation Agreement Between Debtor and Santander Consumer USA Inc. re 19 Hyundai Elantra

From: 6/12/19

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Amber Michelle Perez

Pro Se

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:17-15043 Sandra Lou Harter and Joseph Harter

Chapter 7

#2.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 71

Tentative Ruling:

6/26/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee and Counsel for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

TRUSTEE FEES: \$ 14,500
TRUSTEE EXPENSES: \$ 264.57

ATTORNEY FEES: \$ 25,000
ATTORNEY COSTS: \$ 405.19

TAX PREPARER FEES: \$1,000
COURT CHARGES: \$350

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Sandra Lou Harter

Represented By
Carey C Pickford

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Trustee(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

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11:00 AM

6:10-51855 Brian Gudets and Delia F Gudets

Chapter 7

#3.00 CONT Notice of Trustee's Final Report and Applications for Compensation

From: 1/16/19, 3/27/19

EH__

Docket 116

***** VACATED *** REASON: CASE CLOSED 5/10/09**

Tentative Ruling:

3/27/2019

1. Background

On December 30, 2010, Brian & Delia Gudets ("Debtors") filed a Chapter 7 voluntary petition. On April 20, 2011, Debtors received a discharge. On October 6, 2011, the case was closed.

On November 27, 2017, UST filed a motion to reopen the case to potentially administer a settlement award arising from prepetition litigation. On January 4, 2018, Debtors amended Schedules B and C to schedule a personal injury claim in the amount of \$50,000, and claim an exemption in the property of \$50,000. The Court notes that this amendment may have been in violation of FED. R. BANKR. P. Rules 1009(a) and 9006(b)(1), however, the Trustee declined to object to the amended exemptions. On February 13, 2018, the IRS filed a proof of claim ("Claim 4") in the amount of \$92,398.37, identifying \$34,307.73 as secured and \$57,990.64 as entitled to priority.

On April 9, 2018, Trustee filed a motion to approve compromise, which was approved by this Court on May 3, 2018. After receiving, \$50,000 from the approved settlement, Trustee's general and special counsel filed applications for compensation.

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Trustee filed the instant final report on December 11, 2018. The final report proposes to pay \$41,488.74 to Trustee and his counsels for administrative expenses, and to pay the remaining \$6,011.26 on account of Claim 4.

The Court held a hearing on the matter on January 16, 2019, and continued the matter for Trustee to file a supplemental brief. On March 5, 2019, Trustee filed a supplemental brief, and then amended the brief on March 20, 2019.

2. The Court's Previous Tentative Ruling

The Court's previous tentative included the following:

In essence, Trustee's proposed distribution pays the Chapter 7 administrative expenses first, the priority tax claim of the IRS second, and the Debtor's exemption third (although there are no funds available at this point). After reviewing the compromise motion, it appears that the Trustee's rationale is as follows. First, pursuant to 11 U.S.C. § 522(c)(2)(B), exempt property of the Debtor is liable for Claim 4. Second, pursuant to § 724(b), payments made on behalf of IRS are only to be made after payment of the administrative expenses of the estate. Trustee appears to miss, however, § 522(k), which provides that exempt property cannot be used to pay administrative expenses, except under limited circumstances which are not applicable here. This provision would seem to preclude Trustee's attempt to jump ahead of Debtor's exemption in the order of distribution.

At first glance, the three cited provisions above would seem paradoxical. According to Trustee, 11 U.S.C. § 522(c)(2)(B) places Claim 4 above Debtor's exemption. According to Trustee, 11 U.S.C. § 724(b) appears clear that payment on behalf of Claim 4 is subordinated to payment of administrative expenses. And 11 U.S.C. § 522(k) appears clear that payment of administrative expenses is subordinated to payment of Debtor's exemption.

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The Court's resolution of this paradox is the following. 11 U.S.C. § 724(b) is only applicable to "[p]roperty in which the estate has an interest." Pursuant to 11 U.S.C. § 522(b)(1), the settlement proceeds at issue are subject to an exemption and therefore have been "exempt[ed] from property of the estate." *See also Schwab v. Reilly*, 560 U.S. 770, 775 (2010) ("If an interested party fails to object within the time allowed, a claimed exemption will exclude the subject property from the estate."). Therefore, the estate does not have an interest in the settlement proceeds and § 724(b) is inapplicable. Because § 724(b) is inapplicable, the remaining provisions place Claim 4 ahead of the exemption and the exemption ahead of the administrative expenses. As a result, Trustee's is precluded from jumping Claim 4 and Debtor's exemption in the order of distribution. Therefore, the proper distribution appears to be to pay the secured portion of Claim 4, and to return the balance to the Debtor on account of Debtor's exemption in the proceeds.

3. Applicable Statutes

11 U.S.C. § 724(b)(1)-(3) state the following:

(b) Property in which the estate has an interest and that is subject to a lien that is not avoidable under this title (other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate) and that secures an allowed claim for a tax, or proceeds of such property, shall be distributed –

- (1) first, to any holder of an allowed claim secured by a lien on such property that is not avoidable under this title and that is senior to such tax lien
- (2) second, to any holder of a claim of a kind specified in section 507(a)(1)(C) or 507(a)(2) (except that such expenses under each such section, other than claims for wages, salaries, or commissions that arise after the date of the filing of the petition, shall be limited to expenses incurred under this chapter and shall not include expenses, incurred under chapter 11 of this title), 507(a)(1)(A), 507(a)(1)(B), 507(a)(3), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of this title, to the extent of the amount of such allowed tax claim that is secured by such tax lien;
- (3) third, to the holder of such tax lien, to any extent that such holder's allowed tax claim that is secured by such tax lien exceeds any amount

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distributed under paragraph (2) of this subsection.

11 U.S.C. § 522(c)(2)(B) states the following:

(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except –

(2) a debt secured by a lien that is –

(B) a tax lien, notice of which is properly filed

11 U.S.C. § 522(k) states the following: "Property that the debtor exempts under this section is not liable for payment of any administrative expense except . . ." (exceptions inapplicable to instant situation).

4. Analysis

In support of its proposed distribution scheme, Trustee extensively cites three cases: (1) *In re Fearing*, 2008 WL 4690967 (C.D. Cal. 2008); (2) *In re Laredo*, 334 B.R. 401 (Bankr. N.D. Ill. 2005); and (3) *In re Bolden*, 327 B.R. 657 (Bankr. C.D. Cal. 2005).

The Court does not find *In re Fearing* to be helpful. The district court's affirmance was summary, and the bankruptcy court opinion was not published. Furthermore, to the extent *In re Fearing* engaged in any analysis, it appears to have simply adopted the rationale of the other two cases referenced above.

Additionally, the Court does not find *In re Laredo* to be particularly helpful. First, the Court notes that *In re Laredo* does not appear to make an effort to resolve the apparent conflict between the three statutes cited above; 11 U.S.C. § 522(k) is not cited anywhere in the decision. Second, the Court notes that the extensive excerpt quoted in Trustee's supplemental brief has been rejected by the majority of the courts that have quoted that section.

The Court does, however, find *In re Bolden* to contain helpful analysis. Specifically, the following statement from the bankruptcy court in *In re Bolden* has the potential to resolve the conflict between the three, ostensibly incompatible statutory provisions:

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CONT... **Brian Gudets and Delia F Gudets**

Chapter 7

"Generally, a debtor is not entitled to claim a homestead exemption on property that is subject to an IRS levy." *In re Bolden*, 327 B.R. 657, 663 (Bankr. C.D. Cal. 2005). In other words, if Debtors' exemption is not valid to the extent the underlying property is encumbered by an IRS lien, then the prohibition of § 522(k) does not apply to the extent of the IRS lien. *See also* GINSBERG & MARTIN ON BANKRUPTCY § 6.02[D][2] (5th ed. 2019) ("Section 522(c)(2)(B) gives special protection to taxes by providing that the debtor cannot claim an exemption in property subject to a properly filed tax lien."). Here, the Court concludes that Debtors are unable to claim an exemption in the settlement proceeds to the extent of the properly noticed tax lien. *See, e.g., Owen v. Owen*, 500 U.S. 305, 308-09 (1991); *see also In re Hannon*, 514 B.R. 69 (Bankr. D. Mass. 2014).

To the extent that there are proceeds available above and beyond the amount of the tax lien, however, Debtors' exemption is valid and those funds cannot be used to pay administrative costs due to the unambiguous prohibition included within § 522(k). *See In re Selander*, 592 B.R. 729, 735 (Bankr. W.D. Wash. 2018) ("In the absence of the IRS lien, the Trustee's request would amount to the naked use of exempt funds to pay costs of the sale and his fees – a result prohibited by § 522(k)."). Of particular note is the fact that all of the cases relied upon by Trustee pre-date *Law v. Siegel*, 571 U.S. 415, 422 (2014). Prior to *Law v. Siegel*, courts not infrequently used various equitable powers to essentially surcharge a debtor's exemption to pay administrative costs. *See, e.g., 4 COLLIER'S ON BANKRUPTCY* ¶ 522.12[7] (16th ed. 2014) ("Despite the protection provided for exemptions in section 522(k), a number of courts had held that a debtor's exempt property could be surcharged for administrative expenses in circumstances beyond those provided for in the statute."). Now, however, the Court is left with no discretion over the application of § 522(k) to the extent Debtors have an allowed exemption in equity in the proceeds. Trustee having failed to object to Debtors' claimed exemption, Debtors' exemption is valid to the extent that there is equity in the proceeds.

The Court notes that on March 19, 2019, the IRS amended Claim 4 to reduce its claim to \$4,255.91. Therefore, Debtors' exemption applies to the remaining \$45,744.09, and Trustee can use the framework of 11 U.S.C. §724(b) to distribute the remaining \$4,255.91 for administrative costs.

5. **Attorney's Lien**

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CONT... Brian Gudets and Delia F Gudets

Chapter 7

Trustee next argues that the state court counsel has an equitable attorney lien on the settlement proceeds. The Court rejects this argument for the following reason. Any attorney lien created in this case would have been created postpetition because the underlying state court litigation was not commenced until twenty-one months after the petition date. 11 U.S.C. § 541 (a)(1) provides that property of the estate includes all "legal or equitable interests of the debtor in property *as of the commencement of the case.*" (emphasis added). Because the alleged attorney lien did not exist as of the commencement of the case, it would not have impaired Debtors' interest in the litigation claim (or its proceeds pursuant to § 541(a)(6)), and therefore, subject to other liens, Debtors' exemption is valid against the entirety of the proceeds. Because Debtors' exemption is valid in bankruptcy including as to any interest that state court counsel now has a lien against, those proceeds cannot be used to pay the administrative expenses.

The Court need not reach the issue of whether state court counsel has a valid, postpetition lien against the proceeds which may be enforceable pursuant to state law. For the reasons stated in the above paragraph, satisfaction of the postpetition lien, if valid, cannot occur through distribution in bankruptcy court.

The Court is inclined to APPROVE the following distribution: \$45,744.09 to Debtors on account of their valid exemption, and the remaining \$4,255.91 for administrative costs. Parties to file a supplement or stipulate as to the distribution of funds available for administrative costs.

Party Information

Debtor(s):

Brian Gudets

Represented By
Rex Tran
Ronald Karz

Joint Debtor(s):

Delia F Gudets

Represented By
Rex Tran
Ronald Karz

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CONT... Brian Gudets and Delia F Gudets

Chapter 7

Trustee(s):

Sandra L Bendon (TR)

Pro Se

Karl T Anderson (TR)

Represented By
Robert A Hessling

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Hearing Room 303

11:00 AM

6:11-33601 John Vega and Carolyn Vega

Chapter 7

#4.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 61

Tentative Ruling:

6/26/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee and Accountant for the Trustee, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 6,844.07
Trustee Expenses: \$ 1,079.92

Accountant Fees: \$ 3,276
Accountant Costs: \$ 397.40

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

John Vega

Represented By
Jenny L Doling

Joint Debtor(s):

Carolyn Vega

Represented By
Jenny L Doling

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CONT... John Vega and Carolyn Vega

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:11-42675 Daniel Norman Bailey and Marlene Yvette Bailey

Chapter 7

#5.00 Motion For Contempt for Violation of Discharge Injunction 11 U.S.C. § 524(A)(2)

EH ____

Docket 70

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Joint Debtor(s):

Marlene Yvette Bailey

Represented By
Baruch C Cohen

Movant(s):

Daniel Norman Bailey

Represented By
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CONT...

Daniel Norman Bailey and Marlene Yvette Bailey

Chapter 7

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CONT... Daniel Norman Bailey and Marlene Yvette Bailey Chapter 7

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Marlene Yvette Bailey

Represented By
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CONT...

Daniel Norman Bailey and Marlene Yvette Bailey

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Trustee(s):

Charles W Daff (TR)

Represented By
Charles W Daff (TR)

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6:11-42675 Daniel Norman Bailey

Chapter 7

Adv#: 6:19-01056 Hanford Development Properties LLC, Central Valley v. Bailey et al

#6.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01056. Complaint by Hanford Development Properties LLC, Central Valley Holding Company, LLC, Daniel Norman Bailey against Daniel Norman Bailey, Marlene Yvette Bailey. 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)),(65 (Dischargeability - other)) (Cutchin, John)

From: 5/29/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Defendant(s):

Daniel Norman Bailey

Represented By
Baruch C Cohen

Marlene Yvette Bailey

Represented By
Baruch C Cohen

Joint Debtor(s):

Marlene Yvette Bailey

Represented By
Baruch C Cohen

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CONT... Daniel Norman Bailey

Chapter 7

Plaintiff(s):

Hanford Development Properties

Represented By
John W Cutchin

Trustee(s):

Charles W Daff (TR)

Represented By
Charles W Daff (TR)

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6:15-21418 James Lloyd Walker

Chapter 7

#7.00 Motion for Order: (1) Approving The Sale of Real Property of The Estate Pursuant to 11 U.S.C. Section 363(b)(1); (2) Approving Overbid Procedure as Proposed Herein; (3) Approving Payment of Broker(s) Commission; (4) Determination That The Proposed Buyer is a "Good Faith Purchaser" Under 11 U.S.C. Section 363(m); and (5) Waiver of The Stay Under FRBP 6004(h); Declarations of Robert S. Whitmore and Jerri Tillitt in Support Thereof (Djang, Caroline)

EH__

Docket 183

Tentative Ruling:

6/26/19

BACKGROUND

On November 23, 2015, James Walker ("Debtor") filed a Chapter 7 voluntary petition. Debtor previously have five Chapter 7 filings between November 2010 and July 2013, all of which were ultimately dismissed. The procedural background of this case is somewhat complex; the following is a list of the substantive orders entered in this case:

-May 26, 2016: Orders: (1) extending deadline to file a complaint objecting to discharge; (2) directing turnover of Debtor's books and records; and (3) approving the employment of Trustee's counsel.

-September 7, 2016: Judgment denying discharge

-March 6, 2017: Order approving the employment of Trustee's real estate broker

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CONT... James Lloyd Walker

Chapter 7

- June 1, 2017: Orders disallowing Claims 1 and 2.
- October 26, 2017: Relief from stay granted to Bayview Loan Servicing
- December 1, 2017: Order approving abandonment of certain real properties
- October 2, 2018: Order granting motion for turnover of certain real property located at 13247 Mammoth St., Hesperia, CA 92344 (the "Property")
- January 24, 2019: OSC why Debtor should not be held in contempt for failure to comply with turnover motion
- March 28, 2019: Interim order awarding Trustee's counsel \$36,387.69.

On June 5, 2019, Trustee filed a motion for an order: (1) approving the sale of real property of the estate; (2) approving overbid procedures; (3) approving payment of broker's commissions; (4) finding purchaser is a good faith purchaser; and (5) waiver of the Rule 6004(h) stay. Trustee proposes to sell the Property to Paul & Sharon Sepulveda (the "Purchasers") for \$310,000. Because the only filed claims in this case have either been withdrawn, amended to \$0, or disallowed by order of the Court, the proceeds of this sale would go to pay administrative expenses, with any remaining surplus payable to the Debtor.

DISCUSSION

I. Sale of Estate Property

11 U.S.C. § 363(b)(1) allows a trustee to sell property of the estate outside of the ordinary course, after notice and a hearing. A sale pursuant to § 363(b) requires a demonstration that the sale has a valid business justification. *In re 240 North Brand Partners, Ltd.*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996). "In approving any sale outside the ordinary course of business, the court must not only articulate a sufficient business reason for the sale, it must further find it is in the best interest of the estate,

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CONT... James Lloyd Walker

Chapter 7

i.e. 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." *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal.).

The motion contains some evidence of the Property's marketing. Given the fact that the sale appears to be a good faith, arms-length transaction, and the fact that it appears that the sale will result in a surplus estate, the Court concludes that Trustee has articulated an adequate business reason for the sale.

II. 14-Day Stay

FED. R. BANKR. P. Rule 6004(h) states: "An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Court deems the absence of objections to be consent to the relief requested, pursuant to Local Rule 9013-(1)(h), and, therefore, will waive the stay of Rule 6004(h).

III. Miscellaneous Provisions

The Court has reviewed the remainder of Trustee's miscellaneous requests. Regarding the overbidding procedures, the Court has reviewed the proposed overbidding procedures and finds such procedures to be reasonable.

Regarding the broker's compensation, the motion appears to be silent regarding the specific amount of the broker's compensation. The Court notes, however, that the declaration of Trustee caps the real estate broker's commission at 6%, a reasonable and customary amount.

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Regarding Trustee's request for a good faith determination pursuant to § 363(m), the Court notes that Trustee has not provided a declaration of the Purchasers. While Trustee's declaration does contain some evidence to support a good faith finding under § 363(m), the Court will also require a declaration of Purchasers.

Finally, the Court notes that while the prayer for relief states that Trustee requests an order "[a]uthorizing the distribution of proceeds from the propose sale as set forth herein," the motion does not appear to outline the distribution of proceeds. Assuming that the proceeds will be used to satisfy administrative expenses, then paid to Debtor, this omission does not appear problematic.

TENTATIVE RULING

The Court is inclined to GRANT the motion in its entirety conditioned on: (a) a clear identification of the amount of the broker's commission; (b) the submission of a declaration or other evidence by Purchasers to support a good faith finding under § 363(m); and (c) a proposed distribution of proceeds.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth
William J Smyth

Movant(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

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CONT... James Lloyd Walker

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

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11:00 AM

6:09-37653 Debi Jo Killian

Chapter 7

#8.00 CONT Motion for Order Confirming Personal Injury Award is Exempt and Not Part of Bankruptcy Estate

From: 1/9/19, 4/10/19, 6/5/19

EH ____

Docket 21

*** VACATED *** REASON: ORDER ENTERED 6/3/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Debi Jo Killian

Represented By
Gregory J Doan
Michael H Raichelson

Movant(s):

Debi Jo Killian

Represented By
Gregory J Doan
Michael H Raichelson

Trustee(s):

John P Pringle (TR)

Represented By
Michelle A Marchisotto

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Wednesday, June 26, 2019

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11:00 AM

6:17-18295 Eastern Legends CW

Chapter 7

#9.00 Chapter 7 Trustees Motion for Order Authorizing Trustees Compromise and Settlement Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure

EH__

Docket 29

Tentative Ruling:

6/26/19

BACKGROUND

On October 3, 2017, Eastern Legends CW ("Debtor") filed a Chapter 7 voluntary petition. On November 19, 2018, Trustee filed an adversary complaint against Via Cerro Partners, LP ("Defendant") for avoidance of preferential transfer/fraudulent conveyance, turnover of property of the estate, and recovery of avoided transfers (the "Adversary"). The Adversary is based on a payment of \$50,526.56 from Debtor to Defendant less than six months prior to the petition date.

On April 19, 2019, Trustee filed a compromise motion seeking to settle the Adversary (the "Motion"). On May 21, 2019, the Court set the Motion for hearing, requiring service of a notice of hearing and the Motion on all parties by June 5, 2019. The Court notes that Trustee did not comply with this requirement – no new service of the Motion was filed, and the notice of hearing was not served until June 13, 2019. The notice of hearing also identifies an objection deadline of June 12, 2019 – before the notice was served.

On June 10, 2019, a creditor, JWLC Imports Inc., filed a limited opposition to the Motion, although the opposition does not appear to oppose the Motion on the merits.

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11:00 AM

CONT... Eastern Legends CW

Chapter 7

The background of the Motion is as follows. Unbeknownst to Trustee, Debtor entered into a lease with Defendant on May 15, 2017, and made a \$50,526.56 payment to Defendant for 1.5 months rent. After learning of this lease, Trustee reached an agreement with Defendant, the material terms of which are as follows:

- 1) Defendant shall be entitled to an administrative rent claim of \$25,000, representing two monthly payments of \$12,500.
- 2) Trustee will have until May 30 to identify and collect any property of the estate located at the leased premises.
- 3) Trustee is to dismiss, with prejudice, the subject adversary proceeding.

DISCUSSION

FED. R. BANKR. P. Rule 9019 provides that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

The Ninth Circuit Court of Appeals have previously outlined the factors to be considered in approving a compromise pursuant to Rule 9019: (1) the probability of success in the litigation; (2) the difficulties to be encountered in the matter of collection; (3) the complexity, expense, inconvenience and delay of litigation; and (4) the interest of creditors with deference to their reasonable views. *See In re A&C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). The listed factors assist the Court in determining "the fairness, reasonableness and adequacy of a proposed settlement

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CONT... Eastern Legends CW
agreement." *Id.*

Chapter 7

Apart from the fact that Trustee has not complied with the notice and service requirements of this Court's order entered May 21, 2019, the Motion contains no meaningful evidence which would allow the Court to apply the *A&C Properties* factors. Furthermore, given the amount of time that has passed since the Motion was filed, the Court will require an update on relevant developments since the filing of the Motion.

TENTATIVE RULING

The Court is inclined to CONTINUE the matter for supplemental evidence and proper notice and service.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Movant(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

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11:00 AM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01228 Anderson, Chapter 7 Trustee v. Via Cerro Partners, LP

#10.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01228. Complaint by Karl T. Anderson, Chapter 7 Trustee against Via Cerro Partners, LP. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Polis, Thomas)

From: 1/16/19, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Via Cerro Partners, LP

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
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Wednesday, June 26, 2019

Hearing Room 303

11:00 AM

6:18-17431 James Michael Gorman

Chapter 7

#11.00 Motion for extension of time to file a complaint objecting to discharge

EH__

Docket 36

Tentative Ruling:

6/26/19

BACKGROUND

On August 31, 2018, James Michael Gorman ("Debtor") filed a Chapter 7 voluntary petition. On February 1, 2019, the Court granted UST's motion to extend dismissal and discharge deadlines until February 28, 2019. On May 1, 2019, the Court granted UST's motion to extend dismissal and discharge deadlines until May 31, 2019. On May 23, 2019, the Court granted Trustee's motion for an order compelling Debtor to produce documents and appear for an examination.

On May 31, 2019, UST filed a third motion for extension of time to file a complaint objecting to discharge because Debtor has not yet fully complied with Trustee's requests for information.

DISCUSSION

FED. R. BANKR. P. Rule 4004(a) states:

- (1) In a chapter 7 case, a complaint, or a motion under § 727(a)(8) or (9) of the Code, objecting to the debtor's discharge shall be filed no later than 60

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11:00 AM

CONT...

James Michael Gorman

Chapter 7

days after the first date set for the meeting of creditors under § 341(a). In a chapter 11 case, the complaint shall be filed no later than the first date set for the hearing on confirmation. In a chapter 13 case, a motion objecting to the debtor's discharge under § 1328(f) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). At least 28 days' notice of the time so fixed shall be given to the United States trustee and all creditors as provided in Rule 2002(f) and (k) and to the trustee and the trustee's attorney.

And FED. R. BANKR. P. Rule 4004(b) states:

- (1) On motion of any party in interest, after notice and hearing, the court may for cause extend the time to object to discharge. Except as provided in subdivision (b)(2), the motion shall be filed before the time has expired.
- (2) A motion to extent the time to object to discharge may be filed after the time for objection has expired and before discharge is granted if (A) the objection is based on facts that, if learned after the discharge, would provide a basis for revocation under § 727(d) of the Code, and (B) the movant did not have knowledge of those facts in time to permit an objection. The motion shall be filed promptly after the movant discovers the facts on which the objection is based.

Here, Debtor's delay in providing the requested information constitutes sufficient cause to extend the deadline. *See* COLLIER ON BANKRUPTCY ¶ 4004.03[2] (16th ed. 2013) ("A debtor's delays in responding to discovery may be sufficient cause. Obviously, a delay in the meeting of creditors to a date close to or after the deadline may constitute such cause.") (*citing In re McCormack*, 244 B.R. 203 (Bankr. D. Conn. 2000)).

Moreover, Debtor's failure to oppose may be deemed consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

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11:00 AM

CONT... James Michael Gorman

Chapter 7

The Court is inclined to GRANT the motion.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

James Michael Gorman

Pro Se

Movant(s):

United States Trustee (RS)

Represented By
Everett L Green

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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Central District of California
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Wednesday, June 26, 2019

Hearing Room 303

11:00 AM

6:19-10335 Adam Charles Welker and La Nina Marie Ann Welker

Chapter 7

#12.00 Debtor's Motion to Avoid Lien with Portfolio Recovery Associates, LLC

EH ____

Docket 18

Tentative Ruling:

6/26/2019

On January 15, 2019, Adam Charles Welker and La Nina Marie Ann Welker ("Debtors") filed a Chapter 7 voluntary petition. Among the assets listed on Schedules A/B was certain real property located at 290 Moroni Ave, Lake Elsinore, CA 92530 (the "Property"), which Debtor values at \$258,000.00. On Schedule C, Debtor claimed an exemption in the Property in the amount of \$100,000.00. On Schedule D, Debtor lists three liens against the property: (a) two mortgages, both held by Freedom Mortgage, totaling \$191,297; and (b) a judgment lien totaling \$3,517.31, held by Portfolio Recovery Associates.

On April 23, 2019, Debtors filed a motion to avoid the judicial lien of Portfolio Recovery Associates ("Creditors"). On May 22, 2019, the Court entered an order, setting the matter for hearing and requiring supplemental evidence regarding the amount of the senior mortgages, as well as evidence of their recordation. On May 31, 2019, Debtors filed their supplemental evidence.

The Court, having reviewed the motion and the supplemental evidence, and noting the lack of opposition, is inclined to GRANT the motion, avoiding the judicial lien of Portfolio Recovery Associates.

**United States Bankruptcy Court
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Wednesday, June 26, 2019

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11:00 AM

CONT... Adam Charles Welker and La Nina Marie Ann Welker

Chapter 7

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Adam Charles Welker

Represented By
Brian J Soo-Hoo

Joint Debtor(s):

La Nina Marie Ann Welker

Represented By
Brian J Soo-Hoo

Movant(s):

Adam Charles Welker

Represented By
Brian J Soo-Hoo

La Nina Marie Ann Welker

Represented By
Brian J Soo-Hoo
Brian J Soo-Hoo

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, June 26, 2019

Hearing Room 303

11:00 AM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#13.00 Motion of Healthsure Management Services, LLC, for Order Authorizing and Requiring Debtor to Pay Accrued Post-Petition Management Fees for 2018

Also #14 & #15

EH__

Docket 403

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

Movant(s):

HealthSure Management Services,

Represented By
Fred Neufeld

**United States Bankruptcy Court
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Wednesday, June 26, 2019

Hearing Room 303

11:00 AM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#14.00 Application to Employ Brutzkus Gubner as Debtor's Special Litigation Counsel Effective as of May 7, 2019

Also #13 & #15

EH__

Docket 393

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

Movant(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
David M Goodrich
Beth Gaschen
Beth Gaschen
Jennifer Vicente
Jennifer Vicente
Ryan W Beall
Ryan W Beall
Steven T Gubner
Steven T Gubner

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, June 26, 2019

Hearing Room 303

11:00 AM

CONT...

Visiting Nurse Association of the Inland Counties

Jason B Komorsky

Jason B Komorsky

Chapter 11

**United States Bankruptcy Court
Central District of California
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Wednesday, June 26, 2019

Hearing Room 303

11:00 AM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#15.00 Motion for Order Authorizing the Debtor to: (1) Incur Debt Pursuant to 11 U.S.C. § 364(d); and (2) Enter into Transactions Outside the Ordinary Course of Business Pursuant to 11 U.S.C. § 363(b)

Also #13 & #14

EH__

Docket 415

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

Movant(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
David M Goodrich
Beth Gaschen
Beth Gaschen
Jennifer Vicente
Jennifer Vicente
Ryan W Beall
Ryan W Beall
Steven T Gubner

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, June 26, 2019

Hearing Room 303

11:00 AM

CONT...

Visiting Nurse Association of the Inland Counties

Steven T Gubner

Jason B Komorsky

Jason B Komorsky

Chapter 11

**United States Bankruptcy Court
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Wednesday, June 26, 2019

Hearing Room 303

2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

Adv#: 6:18-01237 G Hurtado Construction, Inc. v. Catano et al

#16.00 CONT Status Conference re Adversary case 6:18-ap-01237. Complaint by G Hurtado Construction, Inc. against Juan Catano, Faustino Magana, Donahoo & Associates, PC. (Charge To Estate - \$350.00). -CLAIM OBJECTIONS Nature of Suit: 14 - Recovery of money/property - other, 91- Declaratory judgment

From: 2/5/19, 6/5/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/15/2020 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

Defendant(s):

Juan Catano

Pro Se

Faustino Magana

Pro Se

Donahoo & Associates, PC

Pro Se

Plaintiff(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones

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Wednesday, June 26, 2019

Hearing Room 303

2:00 PM

6:09-37495 Sultan Fakhoury

Chapter 7

Adv#: 6:19-01067 Fakhoury et al v. HAZMAT TSDf INC.

#17.00 Status Conference RE: [1] Adversary case 6:19-ap-01067. Complaint by Sultan Fakhoury, Catherine M Fakhoury against Filter Recycling Services Inc, HAZMAT TSDf INC.. (Fee Not Required). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)),(72 (Injunctive relief - other)) (Marchetti, Albert)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sultan Fakhoury

Represented By
Gary Swanson

Defendant(s):

HAZMAT TSDf INC.

Pro Se

Joint Debtor(s):

Catherine M Fakhoury

Represented By
Gary Swanson

Plaintiff(s):

Sultan Fakhoury

Represented By
Albert W Marchetti

Catherine M Fakhoury

Represented By
Albert W Marchetti

Trustee(s):

Patricia J Zimmermann (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

CONT... Sultan Fakhoury

Chapter 7

**United States Bankruptcy Court
Central District of California
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Wednesday, June 26, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:17-01085 PRINGLE v. Winn et al

#18.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01085. Complaint by JOHN P PRINGLE against Ralph Winn. (Charge To Estate - \$350.00). and other Defendants including DOES 1-25 Nature of Suit: 12 - Recovery of money/property - 547 preference, 13-Recovery of money/property - 548 fraudulent transfer, 21-Validity, priority or extent of lien or other interest in property, 14 - Recovery of money/property - other, 91- Declaratory judgment)

From: 7/12/17, 8/23/17, 10/25/17, 5/16/18, 6/27/18, 9/26/18, 1/23/19, 3/27/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 10/16/19 AT 2 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Ralph Winn

Represented By
Douglas A Plazak

Sterling Security Service, Inc.

Represented By
Seth W Wiener

Natalia V Knoch

Represented By
Seth W Wiener

Steven B Knoch

Represented By
Seth W Wiener

Stacy Winn

Represented By

**United States Bankruptcy Court
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2:00 PM

CONT... Home Security Stores, Inc.

Chapter 7

Douglas A Plazak

Plaintiff(s):

JOHN P PRINGLE

Represented By
Charity J Manee
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

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Wednesday, June 26, 2019

Hearing Room 303

2:00 PM

6:18-13057 Desert Ice Castle, LLC

Chapter 7

Adv#: 6:19-01025 Steven M. Speier, as chapter 7 trustee v. Liu

#19.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01025. Complaint by Steven M. Speier, as chapter 7 trustee against Anthony Liu. (Charge To Estate - \$350.00). with Summons and Adversary Cover Sheet Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(72 (Injunctive relief - other)) (Goe, Robert)

From: 3/27/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 10/16/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Desert Ice Castle, LLC

Represented By
Paul M Stoddard

Defendant(s):

Anthony Liu

Pro Se

Plaintiff(s):

Steven M. Speier, as chapter 7

Represented By
Ryan S Riddles
Robert P Goe

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

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Wednesday, June 26, 2019

Hearing Room 303

2:00 PM

6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#20.00 Pre-Trial Conference RE: [19] Answer to Complaint and Affirmative Defenses to Complaint to Determine Dischargeability Pursuant to 11 U.S.C. §523(a)(6) and COUNTERCLAIM of Shatara Adrienne Thompson for Defamation, Counterclaim by Robert Lee Thompson Jr, Shatara Adrienne Thompson against Beatriz M Gutierrez (Lampl, Robert)

Also #21

EH__

Docket 19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

**United States Bankruptcy Court
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2:00 PM

CONT... Robert Lee Thompson, Jr.

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#21.00 Pre-Trial Conference RE: [1] Adversary case 6:18-ap-01052. Complaint by Beatriz M Gutierrez against Robert Lee Thompson Jr, Shatara Adrienne Thompson . willful and malicious injury))

Also #20

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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2:00 PM

CONT... Robert Lee Thompson, Jr.

Chapter 7

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Wednesday, June 26, 2019

Hearing Room 303

2:00 PM

6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#22.00 Motion to Reconsider (related documents 125 Application (Generic), 130 Motion to Amend, 135 Order on Generic Application (BNC-PDF)) Reconsider Order (docket # 135) Denying Motion for Nunc pro Tunc Employment of Real Estate Broker Jesse Bojorquez with three declarations

EH__

Docket 321

***** VACATED *** REASON: CONTINUED TO 8/21/19 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan

Stephen Collias

Represented By
Cara J Hagan

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

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Wednesday, June 26, 2019

Hearing Room 303

2:00 PM

CONT... Devore Stop A General Partners

Chapter 7

Mohammed Abdizadeh

Pro Se

Movant(s):

Jesse Bojorquez

Represented By

Lawrence J Kuhlman

Autumn D Spaeth ESQ

Jesse Bojorquez

Represented By

Lawrence J Kuhlman

Autumn D Spaeth ESQ

Jesse Bojorquez

Represented By

Lawrence J Kuhlman

Autumn D Spaeth ESQ

Plaintiff(s):

William G Morschauser

Represented By

Hutchison B Meltzer

Reid A Winthrop

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:00 AM

6:17-17589 Ryan Patrick McHugh and Jennifer Lynne McHugh

Chapter 13

#1.00 CONT Motion for Turnover of Property

From: 5/9/19, 6/6/19

EH__

Docket 78

Tentative Ruling:

5/9/2019

BACKGROUND

On September 11, 2017, Ryan & Jennifer McHugh ("Debtors") filed a Chapter 13 voluntary petition. On November 9, 2017, Debtors' Chapter 13 plan was confirmed. The plan has subsequently been modified twice.

On April 7, 2019, Debtors filed a motion for turnover, requesting turnover from Wexler Wallace LLP of certain funds received from a confidential personal injury settlement.

DISCUSSION

The Court notes that service appears improper for several reasons. First, it does not appear that Wexler Wallace LLP has been served with the instant motion at all. Second, a motion for turnover is, at the least, a contested matter under FED. R. BANKR. P. Rule 9014 and, therefore, the Rule 7004 service requirements apply. Finally, Rule

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CONT... Ryan Patrick McHugh and Jennifer Lynne McHugh

Chapter 13

7001(1) requires that a motion for turnover, with certain exceptions not applicable here, requires an adversary proceeding. While this requirement may be waivable in certain circumstances, service of the underlying motion here is inadequate.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Joint Debtor(s):

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Movant(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, June 27, 2019

Hearing Room 303

11:00 AM

6:18-14516 Gary Ray Osborn

Chapter 13

#2.00 Application for Compensation of Fees and Costs filed by Doling Shaw & Hanover, APC in Accordance with Rule 2016(a); Memorandum of Receipts and Disbursements; Rule 2016(b) Statement; and Declaration of Summer M. Shaw in Support thereof with attached Exhibits 1 through 4 and Proof of Service for Summer M Shaw, Debtor's Attorney, Period: 3/30/2017 to 4/10/2019, Fee: \$27900.00, Expenses: \$557.98.

EH__

Docket 59

***** VACATED *** REASON: CONTINUED TO 7/11/19 AT 11 AM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gary Ray Osborn

Represented By
Summer M Shaw
Jenny L Doling

Movant(s):

Gary Ray Osborn

Represented By
Summer M Shaw
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, June 27, 2019

Hearing Room 303

11:00 AM

6:18-20737 Alfredo N Adriano

Chapter 13

#3.00 Motion For Sanctions/Disgorgement

CASE DISMISSED 3/14/19

EH__

Docket 35

Tentative Ruling:

BACKGROUND

Debtor Alfredo Adriano ("Debtor") filed his voluntary *pro se* Ch. 13 petition on December 27, 2018. His case was dismissed at the confirmation hearing on March 14, 2019, after he failed to appear at the § 341 creditors' meeting, and a 180 refiling bar was set. Alan Darvish ("Darvish") attempted to substitute as Debtor's attorney and reopen Debtor's case on May 7, 2019, which was denied. Christopher Langley motioned the Court to substitute as Debtor's attorney and vacate the 180-day bar against refiling on May 17, 2019, which was granted. The Court entered an order confirming the dismissal of Debtor's case, but vacating the 180-day refiling bar, on June 13, 2019.

The Chapter 13 Trustee Rod Danielson ("Trustee") filed this motion for disgorgement of fees received by Darvish on May 20, 2019. Trustee alleges, based on Debtor's declaration, that Debtor paid Darvish \$900 on December 26, 2019, for representation in his bankruptcy matter. The documents in Debtor's case were prepared by Darvish, but filed *pro se* by Debtor to hide Darvish's involvement in the matter. Darvish also allegedly advised Debtor not to attend the § 341 creditor's meeting and confirmation hearing, which is what resulted in the dismissal of Debtor's case. Trustee seeks a total disgorgement of the \$900 received by Darvish from Debtor.

DISCUSSION

Local Bankruptcy Rule 3015-1(u)(1) states that an attorney retained to represent a Debtor in a Chapter 13 case is responsible for representing the debtor in all matters arising in the case, besides adversary proceedings. LBR 1001-1(f) states that failure to follow the local bankruptcy rules may be grounds for sanctions pursuant to applicable law, including the inherent powers of the Court under 11 U.S.C. § 105. Darvish's

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11:00 AM

CONT... **Alfredo N Adriano**

Chapter 13

receipt of \$900 as a retainer to represent Debtor, and his utter failure to actually represent Debtor in his Chapter 13 case, is a clear violation of LBR 3015-1(u)(1), as well as his ethical duties as an attorney. In addition, Darvish has repeatedly engaged in this course of conduct, resulting in harm to a multitude of debtors who paid him for representation. In light of this, the Court finds that total disgorgement of the \$900 that Darvish received from Debtor is justified under LBR 1001-1(f), and the Court's inherent power under 11 U.S.C. § 105(a) to issue any order necessary and appropriate to carrying out the provisions of the bankruptcy code.

TENTATIVE RULING

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT Movant's request that Alan Darvish disgorge the \$900 in attorney's fees he received from Alfredo Adriano.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Alfredo N Adriano

Represented By
Christopher J Langley

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, June 27, 2019

Hearing Room 303

11:00 AM

6:19-10047 Jose Antonio Contreras and Mayra Lorena Contreras

Chapter 13

#4.00 CONT Confirmation of Chapter 13 Plan

From: 3/14/19, 4/25/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Antonio Contreras

Represented By
A Mina Tran

Joint Debtor(s):

Mayra Lorena Contreras

Represented By
A Mina Tran

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-11090 Angela Clarice Atou

Chapter 13

#5.00 Objection to AMENDED Claim no 6 filed by Brian and Janet Maus

Also #6

EH ____

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angela Clarice Atou

Represented By
Todd L Turoci

Movant(s):

Angela Clarice Atou

Represented By
Todd L Turoci
Todd L Turoci
Todd L Turoci
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:19-11090 Angela Clarice Atou

Chapter 13

#6.00 CONT Confirmation of Chapter 13 Plan

From: 5/9/19, 5/23/19

Also #5

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angela Clarice Atou

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, June 27, 2019

Hearing Room 303

11:00 AM

6:19-11281 Nadia Michelle Lipscomb

Chapter 13

#7.00 CONT Confirmation of Chapter 13 Plan

From: 5/9/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nadia Michelle Lipscomb

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, June 27, 2019

Hearing Room 303

11:00 AM

6:19-11480 John J. Culp

Chapter 13

#8.00 Motion to Disallow Claims #5 LV Tower 52

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John J. Culp

Represented By
Patricia M Ashcraft

Movant(s):

John J. Culp

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, June 27, 2019

Hearing Room 303

11:00 AM

6:19-11586 Jerome D Williams

Chapter 13

#9.00 Debtor's Motion for Order Disallowing Claim # 2-1 filed by LVNV Funding, LLC

EH ____

Docket 25

Tentative Ruling:

6/27/2019 (NO OPPOSITION).

BACKGROUND:

On February 28, 2019, Jerome Williams ("Debtor") filed a Chapter 13 voluntary petition. On June 13, 2019, Debtor's Chapter 13 plan was confirmed.

On March 12, 2019, LVNV Funding LLC ("Creditor") filed a claim ("Claim 2-1") for \$2,101.26 for what appears to be credit card debt originally held by Credit One Bank. The Debt has a last payment date of February 13, 2018, and a charge off date of June 29, 2008.

Debtor filed this claim objection on May 24, 2019, seeking total disallowance.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must

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CONT... **Jerome D Williams**

Chapter 13

"present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

The Court will treat Creditor's failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-(1)(h).

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

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CONT... Jerome D Williams

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Claim 2-1 is based on debts created by a written contract. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. Creditor's proof of claim shows that the last transaction on the debt was on February 13, 2008, and the charge off date was June 29, 2008. This means that the statute of limitations on the debt ran in 2012. As such, claim 2-1 is barred by California statute and unenforceable. The Court is thus inclined to disallow it in its entirety.

TENTATIVE RULING

The Court is inclined to GRANT the motion, DISALLOWING Claim 2-1 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jerome D Williams

Represented By
Christopher J Langley

Movant(s):

Jerome D Williams

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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6:19-12439 Caleb Gervin and Ashley Gervin

Chapter 13

#10.00 CONT Confirmation of Chapter 13 Plan

From: 6/6/19

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Caleb Gervin

Represented By
Christopher Hewitt

Joint Debtor(s):

Ashley Gervin

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12676 Anthony P Mendoza and Lena E Mendoza

Chapter 13

#11.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony P Mendoza

Represented By
Paul Y Lee

Joint Debtor(s):

Lena E Mendoza

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-12699 Luis Enrique Chavez

Chapter 13

#12.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Enrique Chavez

Represented By
Giovanni Orantes

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12702 Cesar Armando Carrillo

Chapter 13

#13.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cesar Armando Carrillo

Represented By
Matthew D Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-12704 Robert Joseph Slapp, III

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Joseph Slapp III

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12755 Salvador Caridad Rodriguez

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Salvador Caridad Rodriguez

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12763 Michael Dorris

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Dorris

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12769 Waryeva D. Anderson

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Waryeva D. Anderson

Represented By
C Scott Rudibaugh

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12792 Mary Tejuoso

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 4/22/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mary Tejuoso

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12848 Erika Ramirez

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 5/10/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Erika Ramirez

Represented By
Marend M Garrett

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12851 Ty Nicholas Garner, Sr. and Diane Lynn Garner

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ty Nicholas Garner Sr.

Represented By
Steven Steven Diamond

Joint Debtor(s):

Diane Lynn Garner

Represented By
Steven Steven Diamond

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-12885 Steven Pierce and Alejandra Pierce

Chapter 13

#21.00 Motion for Setting Property Value of 2016 Jeep Grand Cherokee

Also #22

EH__

Docket 12

Tentative Ruling:

6/27/2019

NO OPPOSITION

BACKGROUND

Steven and Alejandra Pierce ("Debtors") filed their voluntary Ch. 13 petition on April 5, 2019. Creditor LBS Financial Credit Union ("Creditor") filed a claim on April 15, 2019, for \$32,130.99, secured by Debtors' 2016 Jeep Grand Cherokee Limited Edition (the "Property"). Creditor claims a secured amount of \$26,511 and an unsecured amount of \$5,619.99.

Debtor filed this motion to value the Property on April 15, 2019. Debtors assert that the Property should be valued at \$21,775.00 and have provided a NADAguides value report giving a rough trade-in valuation of the Property at \$21,775.00. The valuation would create a secured portion of \$21,775 and an unsecured portion of \$10,335.99.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011). *In re Penrod* concerned itself with an identical fact pattern to the one presented here, with the debtor there seeking to

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CONT... **Steven Pierce and Alejandra Pierce**

Chapter 13

bifurcate the "negative equity" created by trading in a vehicle on which she stilled owed significant funds, just as Debtor here is seeking to do. *Id.* at 1160. However, there is still the question of valuation.

Presently the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor is requesting the lowest possible trade-in valuation provided by NADAguides. The Court is disinclined to accept this valuation. As noted in the NADAguides report, the trade-in value for a vehicle is different, and lower, than the retail value, even for vehicles in the same condition. The clean retail value set by the NADAguides report is \$26,900, which is more than the secured amount claimed by Creditor. As such, the Court finds that Debtor has failed to submit proper evidence to support their proposed valuation, or any valuation below the secured amount currently claimed by Creditor.

TENTATIVE RULING

6/27/2019

SERVICE: PROPER

OPPOSITION: NONE

The Court is inclined to DENY Debtor's motion to value their 2016 Jeep Grand Cherokee at \$21,775.

APPEARANCES REQUIRED.

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CONT... Steven Pierce and Alejandra Pierce

Chapter 13

Debtor(s):

Steven Pierce

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Alejandra Pierce

Represented By
Terrence Fantauzzi

Movant(s):

Steven Pierce

Represented By
Terrence Fantauzzi
Terrence Fantauzzi
Terrence Fantauzzi

Alejandra Pierce

Represented By
Terrence Fantauzzi
Terrence Fantauzzi
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12885 Steven Pierce and Alejandra Pierce

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

Also #21

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Steven Pierce

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Alejandra Pierce

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12923 Charles Cuevas and Paula Cuevas

Chapter 7

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
5/14/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Cuevas

Represented By
Anerio V Altman

Joint Debtor(s):

Paula Cuevas

Represented By
Anerio V Altman

Trustee(s):

Robert Whitmore (TR)

Pro Se

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6:19-12927 Richie R. A. Marella and Maribel L Marella

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richie R. A. Marella

Represented By
Paul Y Lee

Joint Debtor(s):

Maribel L Marella

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12936 Oscar Ricardo Chavez

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Ricardo Chavez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12940 Harmony Rachelle Ramos

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 5/2/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Harmony Rachelle Ramos

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-12950 Edwina Brewer

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edwina Brewer

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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6:19-12952 Jennifer Wilder

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 4/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Wilder

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-12988 Jesus Francisco Alcocer

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus Francisco Alcocer

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-12989 Andres Isak Garcia

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 4/16/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andres Isak Garcia

Represented By
Christian McLaughlin

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-13008 Adrian Magana Saldivar

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Adrian Magana Saldivar

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-13027 Octavio P Garcia

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/29/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Octavio P Garcia

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13034 Kervin R Routt

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 5/14/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kervin R Routt

Represented By
Andrew Williams

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:19-13037 Hong Song and XiaoTao Zhai

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hong Song

Represented By
Jonathan J. Lo
Michael Y Lo

Joint Debtor(s):

XiaoTao Zhai

Represented By
Jonathan J. Lo
Michael Y Lo

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-13055 Christopher Mata

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 4/29/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Mata

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-13064 David Frisinga

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Frisinga

Represented By
Amid Bahadori

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-13103 Sheri Lynn Cooper

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sheri Lynn Cooper

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13433 Tracy R. Franco

Chapter 13

#38.00 Motion by United States Trustee to Dismiss Chapter 13 Case With A Re-filing Bar

EH__

Docket 11

Tentative Ruling:

NO OPPOSITION

BACKGROUND:

Tracy Franco ("Debtor") filed her voluntary Chapter 13 petition on April 23, 2019. Debtor's petition lacked most of the required documents, which were not filed by May 7, 2019 as required.

Debtor has had four prior cases since 2015, with two in 2015 and two in 2017. All but one of the cases were dismissed at the plan confirmation hearing, due to incomplete filings, failure to make plan payments, and for other reasons. One case from 2015 resulted in a confirmed plan, but was dismissed within three months for an almost immediate failure to make plan payments.

The U.S. Trustee filed their motion to dismiss this case for abuse, and request for imposition of a one-year refiling bar, on May 10, 2019.

ANALYSIS:

Debtor's failure to oppose this motion will be read as consent under Local Bankruptcy Rule 9013-1(h).

Bankruptcy courts may dismiss Chapter 13 cases under § 1307(c) for bad faith or abuse. *In re Wenegieme*, 2018 U.S. Dist. LEXIS 19605 at *7-8 (S.D.N.Y. 2018). The continual failure of Debtor to properly prosecute her four prior cases, as well as the current one before the Court, is sufficient evidence of such. Even if bad faith was not found, the case would still be dismissed under § 1307(c)(9) for failure to file the

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CONT... Tracy R. Franco

Chapter 13

required information under § 521(a). As such, the Court is inclined to dismiss Debtor's Chapter 13 case.

The Court has the power to impose a bar against refiling cases under the bankruptcy code under § 349(a) and its inherent authority under § 105 of the Bankruptcy Code. *Id.* at *10-11. This can be done for cause, such as to prevent a bad-faith serial filer from refiling, or when the court needs to curtail other abuses. *Id.* The Court is inclined to find such cause in this matter. Debtor will now likely have had five cases dismissed, with only a single Chapter 13 plan confirmed, due to her continual failure to perform the most basic requirements of a Chapter 13 petitioner. Even the one case which resulted in a confirmed plan only lasted for three months after confirmation due to Debtor's failure to make plan payments within a month of the plan's commencement. The Court finds that this is evidence of bad faith on her part, which warrants a one-year refiling bar to prevent further abuse of the bankruptcy system and waste of judicial resources.

TENTATIVE RULING

The Court is inclined to GRANT the U.S. Trustee's motion for dismissal of Debtor's Chapter 13 case with prejudice. GRANT request for a one-year bar against refiling by Debtor.

APPEARANCES WAIVED.

Party Information

Debtor(s):

Tracy R. Franco

Pro Se

Movant(s):

United States Trustee (RS)

Represented By

Abram Feuerstein esq

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-14341 Jacques Vashonne Powers

Chapter 13

#39.00 Order To Show Cause Why Case Should Not Be Dismissed Re Multiple Filings
EH__

Docket 0

*** VACATED *** REASON: CASE DISMISSED 6/7/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jacques Vashonne Powers

Represented By
Edgar P Lombera

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-14623 Erlwin E Williams

Chapter 13

#39.10 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 717 Juniper St, Hemet, CA 92545

MOVANT: ERLWIN E. WILLIAMS

From: 6/25/19

EH__

Docket 14

Tentative Ruling:

TENTATIVE RULING:

6/25/2019

Service is Proper
Opposition: None (Shortened Notice)

Debtor has not presented sufficient evidence to rebut the presumption that the case was not filed in good faith. Specifically, ¶¶ 7 & 8 of the supplemental declaration do not provide detail as to what caused the payment failure in the first place, and how it has been remedied.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Erlwin E Williams

Represented By
Laleh Ensafi

Movant(s):

Erlwin E Williams

Represented By
Laleh Ensafi

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:00 AM

CONT... Erlwin E Williams

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:15-14501 Vonetta M Mays

Chapter 13

#40.00 Trustee's Motion to Dismiss Case

EH__

Docket 208

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vonetta M Mays

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:15-19432 Kirk Eugene Frantz and Mary Elizabeth Frantz

Chapter 13

#41.00 Trustee's Motion to Dismiss Case

EH__

Docket 151

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/13/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Eugene Frantz

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Mary Elizabeth Frantz

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:15-22362 Catherine L Mires

Chapter 13

#42.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
5/21/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Catherine L Mires

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:17-10620 Larry R. Hoddick and Joyce Kelly Hoddick

Chapter 13

#43.00 Trustee's Motion to Dismiss Case

EH__

Docket 49

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Larry R. Hoddick

Represented By
Summer M Shaw
Jenny L Doling

Joint Debtor(s):

Joyce Kelly Hoddick

Represented By
Summer M Shaw
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:17-10811 Manuel Huertas

Chapter 13

#44.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19, 5/9/19, 6/6/19

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Manuel Huertas

Represented By
Marcella Lucente

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:17-11245 Bryan D. Chriss

Chapter 13

#45.00 Trustee's Motion to Dismiss Case

EH__

Docket 111

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bryan D. Chriss

Represented By
Michael Smith
Cynthia L Gibson
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:17-12011 Joshua Lawrence Ferguson and Wendy Mae Ferguson

Chapter 13

#46.00 Trustee's Motion to Dismiss Case

EH__

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Lawrence Ferguson

Represented By
Stephen H Darrow

Joint Debtor(s):

Wendy Mae Ferguson

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:17-13599 Maurice Frank Manceau

Chapter 13

#47.00 Trustee's Motion to Dismiss Case

EH__

Docket 105

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maurice Frank Manceau

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:17-19890 Katrina Renee McDowell

Chapter 13

#48.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19

EH__

Docket 57

***** VACATED *** REASON: CONTINUED TO 8/22/19 AT 11 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Katrina Renee McDowell

Represented By
Jenny L Doling

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:17-20489 Michael S McGowan and Brandy L McGowan

Chapter 13

#49.00 Trustee's Motion to Dismiss Case

EH__

Docket 51

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael S McGowan

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Brandy L McGowan

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:18-13172 Michelle Cadena Quinn

Chapter 13

#50.00 CONT Trustee's Motion to Dismiss Case

From: 5/9/19, 6/6/19

EH__

Docket 65

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Cadena Quinn

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:18-17700 Nick Caropino

Chapter 13

#51.00 CONT Trustee's Motion to Dismiss Case

From: 6/6/19

EH__

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nick Caropino

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:18-17735 Carlos Garcia

Chapter 13

#52.00 CONT Trustee's Motion to Dismiss Case

From: 4/11/19, 6/6/19

EH__

Docket 34

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlos Garcia

Represented By
John F Brady

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:18-18614 Frank Thomas Scott

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Thomas Scott

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:18-20232 Diana Marie Perrone

Chapter 13

#54.00 CONT Trustee's Motion to Dismiss Case

From: 6/6/19

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Diana Marie Perrone

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:18-20569 Dolores Thompson Boone

Chapter 13

#55.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dolores Thompson Boone

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, June 27, 2019

Hearing Room 303

11:01 AM

6:16-18125 Marc Meisenheimer

Chapter 13

#55.10 Trustee's Motion to Dismiss Case

EH__

Docket 73

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marc Meisenheimer

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

12:00 PM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#56.00 CONT Hearing re Summary Judgment - Motion to Dismiss Adversary Proceeding (6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 2 Declaration of Nathan R. Klein in Support of Defendants Tyler & Bursch, LLP and Jennifer L. Bursch's Fed. R. Civ. P. 12(B)(6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 3 Declaration of Jennifer L. Bursch in Support of Defendants Tyler & Bursch, LLP and Jennifer L. Bursch's Fed. R. Civ. P. 12(B)(6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 4 Compendium of Exhibits in Support of Defendants Tyler & Bursch, LLP and Jennifer L. Bursch's Fed. R. Civ. P. 12(B)(6) Motion to Dismiss Plaintiff Donna Roberto's Complaint for Declaratory Relief # 5 Declaration of Service) (Tyler, Robert)
(MOTION TO DISMISS CONVERTED TO MOTION FOR SUMMARY JUDGMENT)

From: 11/29/18, 3/13/19, 5/30/19

Also #57 - #59

EH__

Docket 5

Tentative Ruling:

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Donna Roberto

Pro Se

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

12:00 PM

CONT... Donna Roberto

Chapter 13

Robert H Tyler

Movant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Plaintiff(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

12:00 PM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#57.00 Order To Show Cause Why Complaint And Counter-Complaint Should Not Be Dismissed

Also #56 - #59

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Pro Se

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

Plaintiff(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

12:00 PM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#58.00 CONT Status Conference RE: [10] Counterclaim by Tyler & Bursch, LLP against Tyler & Bursch, LLP (Attachments: # 1 Exhibit Letter Dated 3/17/17 # 2 Exhibit Letter Dated 4/14/17) (Tyler, Robert)

From: 3/13/19, 5/30/19

Also #56 - #59

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Pro Se

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

Plaintiff(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, June 27, 2019

Hearing Room 303

12:00 PM

6:18-16811 Donna Roberto

Chapter 13

Adv#: 6:18-01186 Roberto v. Tyler & Bursch, LLP et al

#59.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01186 Complaint by Donna Roberto against Tyler & Bursch, LLP, Jennifer Bursch. (Fee Not Required). Nature of Suit: (91 (Declaratory judgment)),(21 (Validity, priority or extent of lien or other interest in property)),(12 (Recovery of money/property - 547 preference)

From: 11/29/18, 3/13/19, 5/30/19

Also #56 - #58

EH __

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Roberto

Pro Se

Defendant(s):

Tyler & Bursch, LLP

Represented By
Robert H Tyler

Jennifer Bursch

Represented By
Robert H Tyler

Plaintiff(s):

Donna Roberto

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 1, 2019

Hearing Room 303

9:30 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#1.00 CONT Motion RE: Objection to Claim Number 10 by Claimant Pacific Steel Group

From: 4/30/19, 5/7/19, 6/25/19

Also #2 - #4

EH__

Docket 228

***** VACATED *** REASON: CONTINUED 7/1/19 AT 11:00 AM**

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 1, 2019

Hearing Room 303

9:30 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#2.00 CONT Motion for Order Directing the Application of FRBP 7068 in Claim
Objection Proceeding

From: 6/25/19

Also #1 - #4

EH__

Docket 271

***** VACATED *** REASON: CONTINUED 7/1/19 AT 11:00 AM**

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 1, 2019

Hearing Room 303

9:30 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#3.00 Evidentiary hearing re Confirmation of Chapter 11 Plan

Also #1 - #4

EH__

Docket 199

***** VACATED *** REASON: CONTINUED 7/1/19 AT 11:00 AM**

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 1, 2019

Hearing Room 303

9:30 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#4.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 11/27/18, 12/19/18, 12/20/18, 1/15/19, 2/26/19, 3/19/19,
6/4/19

Also #1 - #3

EH__

Docket 5

***** VACATED *** REASON: CONTINUED 7/1/19 AT 11:00 AM**

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By

James C Bastian Jr

Melissa Davis Lowe

Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 1, 2019

Hearing Room 303

9:30 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#5.00 Notice of Resolution of Objection to Plan and Motion to Approve Non-Material Modification to Plan including Approval of Settlement and Compromise of Disputes by and between Debtor and Pacific Steel Group

Also # 1-4

EH ____

Docket 307

***** VACATED *** REASON: CONTINUED 7/1/19 AT 11:00 AM**

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By

James C Bastian Jr

Melissa Davis Lowe

Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By

James C Bastian Jr

Melissa Davis Lowe

Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 1, 2019

Hearing Room 303

11:00 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#6.00 CONT Motion RE: Objection to Claim Number 10 by Claimant Pacific Steel Group

From: 4/30/19, 5/7/19, 6/25/19

Also #2 - #4

EH__

Docket 228

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 1, 2019

Hearing Room 303

11:00 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#7.00 CONT Motion for Order Directing the Application of FRBP 7068 in Claim
Objection Proceeding

From: 6/25/19

Also #1 - #4

EH__

Docket 271

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 1, 2019

Hearing Room 303

11:00 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#8.00 Evidentiary hearing re Confirmation of Chapter 11 Plan

Also #1 - #4

EH__

Docket 199

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By

James C Bastian Jr

Melissa Davis Lowe

Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 1, 2019

Hearing Room 303

11:00 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#9.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 11/27/18, 12/19/18, 12/20/18, 1/15/19, 2/26/19, 3/19/19,
6/4/19

Also #1 - #3

EH__

Docket 5

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By

James C Bastian Jr

Melissa Davis Lowe

Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 1, 2019

Hearing Room 303

11:00 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#10.00 Notice of Resolution of Objection to Plan and Motion to Approve Non-Material Modification to Plan including Approval of Settlement and Compromise of Disputes by and between Debtor and Pacific Steel Group

Also # 1-4

EH ____

Docket 307

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 3, 2019

Hearing Room 303

2:00 PM

6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01100 Zamucen & Curren LLP v. Johnson

#1.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01100. Complaint by Zamucen & Curren LLP against Vance Zachary Johnson . (d),(e))

From: 7/31/18, 10/3/18, 1/9/19, 1/30/19, 2/27/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/17/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Zamucen & Curren LLP

Represented By
Patricia J Grace

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 3, 2019

Hearing Room 303

2:00 PM

6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01106 Bankers Healthcare Group, LLC v. Johnson

#2.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01106. Complaint by Bankers Healthcare Group, LLC against Vance Zachary Johnson. 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))

From: 7/10/18, 2/20/19, 4/24/19

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/17/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Bankers Healthcare Group, LLC

Represented By
Todd L Turoci

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 8, 2019

Hearing Room 303

11:00 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#1.00 CONT Motion RE: Objection to Claim Number 10 by Claimant Pacific Steel Group
(HOLDING DATE)

From: 4/30/19, 5/7/19, 6/25/19, 7/1/19

Also

EH__

Docket 228

***** VACATED *** REASON: ORDER ENTERED 7/3/19**

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 8, 2019

Hearing Room 303

11:00 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#2.00 CONT Notice of Resolution of Objection to Plan and Motion to Approve Non-Material Modification to Plan including Approval of Settlement and Compromise of Disputes by and between Debtor and Pacific Steel Group
(HOLDING DATE)

From: 7/1/19

Also

EH ____

Docket 307

***** VACATED *** REASON: ORDER ENTERED 7/3/19**

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, July 8, 2019

Hearing Room 303

11:00 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#3.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report
(HOLDING DATE)

From: 8/28/18, 9/25/18, 11/27/18, 12/19/18, 12/20/18, 1/15/19, 2/26/19, 3/19/19,
6/4/19; 7/1/19

Also #

EH__

Docket 5

***** VACATED *** REASON: ORDER ENTERED 7/3/19**

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, July 8, 2019

Hearing Room 303

11:00 AM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

**#4.00 CONT Evidentiary hearing re Confirmation of Chapter 11 Plan
(HOLDING DATE)**

From: 7/1/19

Also

EH__

Docket 199

***** VACATED *** REASON: ORDER ENTERED 7/3/19**

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:15-19432 Kirk Eugene Frantz and Mary Elizabeth Frantz

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 152079 Rio Vista Road, Big River, CA 92242

MOVANT: BAYVIEW LOAN SERVICING LLC

From: 5/28/19, 6/4/19

EH__

Docket 155

***** VACATED *** REASON: CONTINUED TO 7/30/19 AT 10:00 AM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Eugene Frantz

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Mary Elizabeth Frantz

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney
Edward G Schloss

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:16-15668 Roger C Jefferson

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4372 Edenwild Lane, Corona, CA 92883

MOVANT: JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

EH__

Docket 122

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: Yes

The Court notes that there is no evidence presented with either of Debtor's oppositions. The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)(1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Roger C Jefferson

Represented By
Paul Y Lee

Movant(s):

JPMORGAN CHASE BANK,

Represented By
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:16-16910 Noryvir Frondozo Bequilla

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 34102 Ladyfern Court, Lake Elsinore, CA, 92532 Under 11 U.S.C. § 362

MOVANT: WELLS FARGO BANK N.A.

EH__

Docket 57

***** VACATED *** REASON: STIPULATED ORDER ENTERED 7/8/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Noryvir Frondozo Bequilla

Represented By
Scott Kosner

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:17-10742 William Fuentes and Martha C Orozco de Fuentes

Chapter 13

#4.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 867 South Ironwood Avenue, Rialto (Bloomington Area), CA 92316 .

MOVANT: LAKEVIEW LOAN SERVICING LLC

From: 5/21/19, 6/4/19

EH__

Docket 47

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request for termination of the 11 U.S.C. § 1301(a) co-debtor stay. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

William Fuentes

Represented By
Marlin Branstetter

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

CONT... William Fuentes and Martha C Orozco de Fuentes

Chapter 13

Joint Debtor(s):

Martha C Orozco de Fuentes

Represented By
Marlin Branstetter

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:17-11633 Heather Marie Smith

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 GMC TERRAIN FWD 4DR DEN

MOVANT: ACAR LEASING LTD

EH __

Docket 54

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Heather Marie Smith

Represented By
Carey C Pickford

Movant(s):

ACAR Leasing LTD d/b/a GM

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:17-11759 Monica Rees

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2334 North Palm Avenue, Rialto, CA 92377

MOVANT: U.S. BANK N.A.

EH__

Docket 40

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Monica Rees

Represented By
Julie J Villalobos

Movant(s):

U.S. Bank, N.A., successor trustee to

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:17-12118 Veronica A Mendoza

Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 CHEVROLET MALIBU VIN 1G1ZB5ST7GF286242

MOVANT: PORTFOLIO RECOVERY ASSOCIATES LLC

EH ____

Docket 73

***** VACATED *** REASON: STIPULATED ORDER ENTERED
7/8/2019**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Veronica A Mendoza

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

PRA Receivables Management LLC

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:17-12700 Eugene Alexis Padilla

Chapter 13

#8.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 420 Fenmore Drive, Barstow, CA 92311

MOVANT: FREEDOM MORTGAGE CORPORATION

From: 6/25/19

EH ____

Docket 39

*** VACATED *** REASON: STIPULATED ORDER ENTERED
7/9/2019

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: Yes.

Parties to inform the Court as to the status of the cure of the arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Eugene Alexis Padilla

Represented By
John F Brady

Movant(s):

Freedom Mortgage Corporation, its

Represented By
Kristin A Zilberstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

CONT...

Eugene Alexis Padilla

Chapter 13

Merdaud Jafarnia
Nancy L Lee
Ciro Mestres
Melissa Licker
Jennifer C Wong

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:17-16227 Shawn L. Johnson

Chapter 13

#9.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6583 Kunzite Court, Mira Loma, CA 91752

MOVANT: U.S. BANK NATIONAL ASSOCIATION

From: 5/21/19, 6/4/19

EH__

Docket 49

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request for termination of the 11 U.S.C. § 1301(a) co-debtor stay. GRANT relief from Rule 4001 stay. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

CONT... Shawn L. Johnson

Chapter 13

Debtor(s):

Shawn L. Johnson

Represented By
Mark S Martinez

Movant(s):

U.S. Bank National Association, as

Represented By
Nancy L Lee
Darren J Devlin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:17-17722 Joseph Daniel Coleman and Rosalinda Maria Coleman

Chapter 13

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 KIA Forte EX Sedan 4D

MOVANT: CAPITAL ONE AUTO FINANCE

EH ____

Docket 38

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Joseph Daniel Coleman

Represented By
Nathan Fransen

Joint Debtor(s):

Rosalinda Maria Coleman

Represented By
Nathan Fransen

Movant(s):

Capital One Auto Finance, a division

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

CONT... Joseph Daniel Coleman and Rosalinda Maria Coleman

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:17-18270 Linnea Rennee-Chrismon Allen

Chapter 13

#11.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11623 Primavera Road, Pinon Hills, CA 92372

MOVANT: SPECIALIZED LOAN SERVICING LLC

From: 5/28/19, 6/11/19

EH__

Docket 34

***** VACATED *** REASON: STIP/ORDER ENTERED 6/26/19**

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT movant ability to proceed under applicable nonbankruptcy law to enforce its remedies. GRANT waiver of 14-day stay prescribed by FRBP 4001(a)(3). GRANT defining Debtor as borrower in 2920.5(c)(2)(C).

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Linnea Rennee-Chrismon Allen

Represented By
Scott Kosner

Movant(s):

SPECIALIZED LOAN SERVICING

Represented By
Mukta Suri

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

CONT... Linnea Rennee-Chrismon Allen

Nancy L Lee

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:17-20487 Ann Marie Smith

Chapter 13

#12.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6140 Sard St, Alta Loma, CA 91701

MOVANT: WELLS FARGO BANK N.A.

From: 6/11/19

EH__

Docket 85

Tentative Ruling:

6/11/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from § 1301(a) stay. GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2, 3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ann Marie Smith

Represented By
Brian J Soo-Hoo

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Nancy L Lee
Jonetta A Graves

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

CONT... Ann Marie Smith

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:18-13793 Michael Moreno and Azucena Moreno

Chapter 13

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3209 S Edenglen Paseo #C, Ontario, CA, 91761

MOVANT: WELLS FARGO BANK, N.A.

EH__

Docket 66

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Moreno

Represented By
Andrew Nguyen

Joint Debtor(s):

Azucena Moreno

Represented By
Andrew Nguyen

Movant(s):

Wells Fargo Bank, N.A.

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

CONT... Michael Moreno and Azucena Moreno

Chapter 13

Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:18-14053 Wallace Stanton Miles

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 51700 Avenida Martinez, La Quinta, CA 92253

MOVANT: MTGLQ INVESTORS, LP

EH__

Docket 47

***** VACATED *** REASON: CONTINUED TO 8/20/19 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Wallace Stanton Miles

Represented By
Stuart G Steingraber

Movant(s):

MTGLQ Investors, L.P.

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:18-15033 Victor Portillo

Chapter 13

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1288 N Mt Vernon Ave, San Bernardino, CA 92411

MOVANT: DITECH FINANCIAL LLC

EH__

Docket 44

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2, 3 and 12. DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Victor Portillo

Represented By
Rebecca Tomilowitz

Movant(s):

Ditech Financial LLC, its successors

Represented By
Kelsey X Luu

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:18-19368 Salvador Marquez

Chapter 13

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11468 Caraway Court, Fontana, CA 92337

MOVANT: JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

EH__

Docket 29

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2,3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Salvador Marquez

Represented By
Todd L Turoci

Movant(s):

JPMorgan Chase Bank, National

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:18-20644 Terry E Crossley and Janell Crossley

Chapter 13

#17.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1428 North San Diego Place, Ontario, CA 91764

MOVANT: EAI CAPITAL LLC

From: 6/4/19; 6/25/19

EH__

Docket 38

*** VACATED *** REASON: ORDER ENTERED 7/3/2019

Tentative Ruling:

Tentative Ruling:

6/4/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the asserted cure of the post-petition arrears and the negotiations regarding an adequate protection agreement.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Terry E Crossley

Represented By
Christopher J Langley

Joint Debtor(s):

Janell Crossley

Represented By
Christopher J Langley

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

CONT... Terry E Crossley and Janell Crossley

Chapter 13

Movant(s):

EAI CAPITAL LLC

Represented By
Julian K Bach

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:18-20793 Jose R. Lezama

Chapter 7

#18.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 NISSAN SENTRA

MOVANT: NISSAN MOTOR ACCEPTANCE CORPORATION

EH __

Docket 14

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose R. Lezama

Represented By
Jennifer Ann Aragon - SUSPENDED -

Movant(s):

NISSAN MOTOR ACCEPTANCE

Represented By
Michael D Vanlochem

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:19-12923 Charles Cuevas and Paula Cuevas

Chapter 7

#19.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6812 Angelina St, Chino, CA 91710

MOVANT: HSBC BANK USA NATIONAL ASSOCIATION

EH__

Docket 30

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: Yes

Debtors had a previous case dismissed for failure to file information on February 21, 2019. Pursuant to the operation of 11 U.S.C. § 362(c)(3)(A), the automatic stay in this case terminated on May 7, 2019. Debtors sought a continuance of the automatic stay, but the Court denied the motion on May 7, 2019. Therefore, there is no automatic stay in the instant case, and the Court is inclined to DENY the motion as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Charles Cuevas

Represented By
Anerio V Altman

Joint Debtor(s):

Paula Cuevas

Represented By
Anerio V Altman

Movant(s):

HSBC Bank USA, National

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

CONT... Charles Cuevas and Paula Cuevas

Chapter 7

Nancy L Lee

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:19-13091 Christopher S. Lopez and Renee F. Lopez

Chapter 7

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 GMC Yukon SLT Sport Utility 4D

MOVANT: EXETER FINANCE LLC

EH ____

Docket 13

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Christopher S. Lopez

Represented By
Keith Q Nguyen

Joint Debtor(s):

Renee F. Lopez

Represented By
Keith Q Nguyen

Movant(s):

Exeter Finance, LLC

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

CONT... Christopher S. Lopez and Renee F. Lopez

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:19-13314 Tamra Gillian Rehak

Chapter 13

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Dodge RAM 3500

MOVANT: NAVY FEDERAL CREDIT UNION

EH____

Docket 22

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from § 1301 co-debtor stay. GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Tamra Gillian Rehak

Represented By
Norma Duenas

Movant(s):

Navy Federal Credit Union

Represented By
Asya Landa

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:19-14343 Sonia Lafree Lane

Chapter 7

#22.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1385 North K Street, San Bernardino, CA 92411

MOVANT: MIDFIRST BANK

EH __

Docket 10

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2, 3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Sonia Lafree Lane

Pro Se

Movant(s):

MidFirst Bank

Represented By
Nancy L Lee

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:19-14420 Fabio E. Delcid and Maria C Delcid

Chapter 7

#23.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Toyota Corolla IM

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

Also # 24

EH __

Docket 8

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Fabio E. Delcid

Represented By
Suzette Douglas

Joint Debtor(s):

Maria C Delcid

Represented By
Suzette Douglas

Movant(s):

Toyota Motor Credit Corporation

Represented By

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

CONT... Fabio E. Delcid and Maria C Delcid

Chapter 7

Austin P Nagel

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:19-14420 Fabio E. Delcid and Maria C Delcid

Chapter 7

#24.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Toyota Tundra

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

Also # 23

EH __

Docket 9

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Fabio E. Delcid

Represented By
Suzette Douglas

Joint Debtor(s):

Maria C Delcid

Represented By
Suzette Douglas

Movant(s):

Toyota Motor Credit Corporation

Represented By

**United States Bankruptcy Court
Central District of California
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CONT... Fabio E. Delcid and Maria C Delcid

Chapter 7

Austin P Nagel

Trustee(s):

Larry D Simons (TR)

Pro Se

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

6:19-14440 Herber Morales and Ana L Morales

Chapter 7

#25.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 HONDA PILOT, VIN: 5FNY F3H5 1FB0 03406

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

Docket 9

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). DENY request for relief under § 362(d)(2) for lack of cause shown. GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Herber Morales

Represented By
Paul Y Lee

Joint Debtor(s):

Ana L Morales

Represented By
Paul Y Lee

Movant(s):

AMERICAN HONDA FINANCE

Represented By

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CONT... Herber Morales and Ana L Morales

Chapter 7

Vincent V Frounjian

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:19-14458 Alfonso Velasco, Jr

Chapter 7

#26.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 8830 Jefferson Drive, Buena Park, CA, 90620

MOVANT: WELLS FARGO BANK, NATIONAL ASSOCIATION

EH__

Docket 8

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Alfonso Velasco Jr

Pro Se

Movant(s):

Wells Fargo Bank, National

Represented By
Dane W Exnowski

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:19-14516 Federico Rodriguez and Anita Rodriguez

Chapter 7

#27.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5678 Lewis Avenue, Riverside, CA 92503

MOVANT: AJAX MORTGAGE LOAN TRUST 2018-G, MORTGAGE-BACKED SECURITIES, SERIES 2018-G, BY U.S. BANK NATIONAL ASSOCIATION AS INDENTURE TRUSTEE

EH__

Docket 10

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: Yes

Joint Debtor had a previous case dismissed for failure to file information on March 1, 2019. Therefore, pursuant to the operation of 11 U.S.C. § 362(c)(3)(A), the automatic stay in this case expired on June 23, 2019. Because the automatic stay expired on June 23, 2019, the Court is inclined to DENY all requests for relief that do not relate to an *in rem* request as MOOT.

The Court is inclined to GRANT relief from stay pursuant to § 362(d)(4) based on multiple bankruptcy filings affecting the property. While there is only one recent bankruptcy case affecting the property, that case was a *pro se* Chapter 13 filing the day before a scheduled foreclosure sale. The Court is inclined to GRANT relief from Rule 4001(a)(3) stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Federico Rodriguez

Represented By
Christopher J Langley

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CONT... Federico Rodriguez and Anita Rodriguez

Chapter 7

Joint Debtor(s):

Anita Rodriguez

Represented By
Christopher J Langley

Movant(s):

Ajax Mortgage Loan Trust 2018-G,

Represented By
Renee M Parker

Trustee(s):

Steven M Speier (TR)

Pro Se

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

6:19-14632 Guadalupe Zanina Aguilar

Chapter 7

#28.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 HONDA ACCORD, VIN: 1HGC R2F7 5FA1 83421

MOVANT: HONDA LEASE TRUST

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Guadalupe Zanina Aguilar

Represented By
Jorge A Meza

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:19-14876 Mansoureh Mansi Azhdarian

Chapter 7

#29.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 HONDA HR-V, VIN: 3CZR U5H7 5JM7 05895

MOVANT: HONDA LEASE TRUST

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mansoureh Mansi Azhdarian

Represented By
Rachelle Shakoori

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, July 9, 2019

Hearing Room 303

10:00 AM

6:19-15043 Jose Carlos Pina

Chapter 13

#30.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5311 Beach Street, Jurupa Valley, CA 92509

MOVANT: REHABBERS FINANCIAL, INC.

EH__

Docket 8

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Carlos Pina

Pro Se

Movant(s):

Rehabbers Financial, Inc. dba Real

Represented By
Mark D Estle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 9, 2019

Hearing Room 303

2:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#31.00 Motion For Authority To Use, Sell, Or Lease, Other Than In The Ordinary Course Of Business, Property Of The Estate, And To Accept Contribution Funds To Pay The Secured Second Trust Deed Holder In Full For The Property Located At 3095 Ocelot Cir, Corona, Ca. 92882 Under Bankruptcy Code Section 363(B)

EH__

Docket 138

Tentative Ruling:

7/9/19

BACKGROUND

On January 9, 2018, Jose De Jesus Hernandez ("Debtor") filed a Chapter 11 voluntary petition. One of Debtor's assets is the real property located at 3095 Ocelot Cir. Corona, Ca 92882 (the "Property"), which has a second trust deed held by Wells Fargo.

Debtor entered into a stipulation with Wells Fargo ordering Debtor to either sell or refinance the Property by July 1, 2019, because the second deed of trust held by Wells Fargo has matured and is due. The stipulation was approved by Court order entered February 19, 2019.

Debtor has not been able to refinance the subject property, so to attempt to satisfy the terms of the stipulation and keep the rental income the Property provides, Debtor wants to pay the second trust deed on the Property using contributions from family and friends as well as property of the estate.

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CONT... Jose De Jesus Hernandez

Chapter 11

DISCUSSION

After reviewing the motion, the Court has the following concerns:

I. Insufficient Evidence

- The Debtor has failed to provide evidence as to the valuation of the property—including as to any equity -- which would allow the Court to evaluate Debtor's sound business purpose argument.
- The evidence of Debtor's ability to pay his portion of the secured second trust deed is insufficient. In the motion, Debtor proposes to pay \$58,000.00, but Exhibit D indicates that Debtor's checking account has \$45,135.70. Debtor has not provided any evidence as to his ability to pay the remaining \$12,864.30.
- The Debtor has failed to provide evidence of compliance with the prior order granting the stipulation between Debtor and Wells Fargo, as the motion contains no evidence of Debtor's efforts to sell the property.

II. Merits

- The Debtor's argument as to sound business purpose is overly simplistic. First, it does not address the absolute priority rule and has failed to address whether Debtor's motion constitutes a *sub rosa* plan that lacks the due process protections of the confirmation process. *See, e.g., In re Cont'l Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986) ("Section 363 does not authorize a debtor and the bankruptcy court 'to short circuit the requirements of a reorganization plan by establishing the terms of the plan *sub rosa* in connection' with a proposed transaction."). Second, paying creditors outside of the Code's priority scheme is problematic. *See, e.g., Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 984 (2017) ("The priority system applicable to those distributions has long been considered fundamental to the Bankruptcy Code's operation. The importance of the priority system leads us to expect more than simple statutory silence if, and when, Congress were to intend a major departure. Put somewhat more directly, we would expect to see some affirmative indication of intent if Congress actually meant to make structured dismissals a backdoor means to achieve the exact kind of nonconsensual priority-violating final distributions that the Code prohibits in Chapter 7 liquidations and Chapter 11 plans.").
- The Debtor's motion appears to be an improper collateral attack on the stipulation/order between Debtor and Wells Fargo.

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CONT... Jose De Jesus Hernandez

Chapter 11

TENTATIVE RULING

The Court is inclined to DENY the motion in its entirety.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

Movant(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
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Wednesday, July 10, 2019

Hearing Room 303

11:00 AM

6:13-21098 Monica Faye Wooley

Chapter 7

#1.00 Trustee's Final Report and Applications for Compensation

EH ____

Docket 72

Tentative Ruling:

TENTATIVE RULING

Date: 7/10/2019

Opposition: None

Service: Proper

The applications for compensation of the Trustee and Counsel for the Trustee, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 782.30

Trustee Expenses: \$ 105.27

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Monica Faye Wooley

Represented By

Filemon Kevin Samson III

Trustee(s):

Helen R. Frazer (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

#2.00 Motion to Approve Compromise Under Rule 9019 by Chapter 7 Trustee and Secured Creditor Revere Financial Corporation; Moving Memorandum

EH__

Docket 521

Tentative Ruling:

7/10/19

PROCEDURAL BACKGROUND

On October 20, 2013, Douglas Jay Roger, MD, Inc., ("Debtor") filed a Chapter 7 voluntary petition. In 2015, Trustee filed six adversary proceedings. Of the six, two are closed, one has been resolved but is still open, and three are still pending.

On April 6, 2016, Trustee filed motions to approve compromise ("Compromise Motions") in two of the adversary proceedings (the "Auctioned Adversaries"). After several continuances of the Compromise Motions, the defendants in the Auctioned Adversaries filed motions to enforce the settlement agreements on November 5, 2016 (the "Enforcement Motions"). On January 31, 2017, the day before the hearing on the Compromise Motions and Enforcement Motions, Trustee filed additional compromise motions (the "Second Compromise Motions") with Revere Financial Corporations ("Revere") which included the subject matter of the Compromise Motions as well as a variety of additional matters. Ultimately, after further continuances, the Court held auctions on the Auctioned Adversaries on August 2, 2017. At the auctions, Revere was the highest bidder for one of the Auctioned Adversaries and the adversary defendant was the highest bidder for the other Auctioned Adversary.

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CONT... Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

On January 24, 2018, Revere filed a new compromise motion (the "Third Compromise Motion"). On January 31, 2018, Bank of Southern California, N.A. filed a limited opposition to the Current Compromise Motion. On February 1, 2018, Debtor filed its opposition to the Current Compromise Motion. On February 6, 2018, American Express Company filed a joinder to Debtor's opposition. On February 13, 2018, the Court continued the hearing for six weeks to March 28, 2018.

At the hearing on March 28, 2019, the Court expressed its intention to hold an auction of the claims which were included in the Third Compromise Motion, and continued the matter for an additional six weeks. On April 18, 2019, Trustee filed a sale motion. This sale motion was objected to by Bank of Southern California, N.A., American Express Company, Douglas J Roger, MD ("Roger"), and Revere. On April 26, 2018, Roger requested an emergency hearing, arguing, essentially, that the procedures selected by Trustee were not in compliance with the Court's oral instructions at the hearing of March 28. Subsequently, the Court converted the hearing of May 9 into a status conference to resolve the new dispute. The hearing of May 9 was subsequently continued to June 11, and an amended sale motion was filed by Trustee on May 21. Objections were ultimately filed by Roger, Revere, and American Express Company.

On June 11, 2019, the Court held an auction, however, there were no successful overbids (i.e. overbids which cleared a certain minimum amount). After the unsuccessful auction, the Court took the Third Compromise Motion under submission. On July 26, 2018, Revere appealed the sale motion (the "Appeal"). After the Appeal, the Court withdrew the Third Compromise Motion from submission and, on August 22, 2018, informed the parties that the Appeal would have to be resolved before the Court ruled on the Third Compromise Motion.

On April 5, 2019, the district court reversed the Court's order approving the holding of an auction,¹ invalidating a sale order which resulted in no sale being consummated. The district court instructed this Court "to analyze whether the Second RFC Settlement is fair and equitable under the factors set forth in *A&C Properties*."

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CONT... **Douglas J Roger, MD, Inc., A Professional Corporat**

Chapter 7

Therefore, the Court will continue with the analysis it was undertaking a year ago.

FACTUAL BACKGROUND

The Third Compromise Motion creates four categories of assets: (1) cash held by Trustee and in which Revere claims a security interest ("Encumbered Cash"); (2) cash received from the Auctioned Adversaries ("Unencumbered Cash"); (3) tax refunds ("Uncertain Cash"); and (4) claims ("Uncertain Claims"). Pursuant to the terms of the compromise the bankruptcy estate is guaranteed, for distribution to administrative and unsecured claimants, \$185,000 in Unencumbered cash, a \$45,000 carve-out from Revere.

The settlement agreement also contemplates the creation of a liquidating trust with Revere acting as liquidating trustee. The rights to pursue Debtor's causes of action will be assigned to the liquidating trust, and Revere will have full discretion to determine which claims to pursue. Revere will cover the costs incurred by the liquidating trust. Any recovery obtained by the liquidating trust will be distributed as followed:

- (1) Payment of taxes
- (2) An \$80,000 distribution to the bankruptcy estate
- (3) Reimbursement of expenses incurred by Revere
- (4) Payment of an "equalizing distribution" "so that the DJRI Estate has received 25% of all net proceeds and RFC has received 75% of all net proceeds; and
- (5) Distribution of 25% of all remaining proceedings to the bankruptcy estate.

In return, the settlement agreement provides that Trustee will agree to allow Revere a claim of \$5,500,000.00, of which \$4,000,000.00 will be treated as secured. Trustee also waives the right to challenge the validity or priority of Revere's security interest, and abandons any remaining interest in Revere's collateral.²

DISCUSSION

I. Legal Standard for Approving Compromise

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Rule 9019(a) authorizes the bankruptcy court to approve a compromise or settlement on the trustee's motion and after notice and a hearing. The bankruptcy court must consider all "factors relevant to a full and fair assessment of the wisdom of the proposed compromise." *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424, 88 S. Ct. 1157, 20 L. Ed. 2d 1 (1968). In other words, the bankruptcy court must find that the settlement is "fair and equitable" in order to approve it. *Martin v. Kane (In re A & C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

In conducting this inquiry, the bankruptcy court must consider the following factors:

- (a) the probability of success in the litigation;
- (b) the difficulties, if any, to be encountered in the matter of collection;
- (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
- (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Id.

The bankruptcy court enjoys broad discretion in approving a compromise because it "is uniquely situated to consider the equities and reasonableness [of it]" *United States v. Alaska Nat'l Bank (In re Walsh Construction, Inc.)*, 669 F.2d 1325, 1328 (9th Cir. 1982). As stated in *A & C Props.*:

The purpose of a compromise agreement is to allow the trustee and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims. The law favors compromise and not litigation for its own sake, and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision must be affirmed.

Id. (citations omitted).

On the other hand, even though the bankruptcy court has wide latitude in approving

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compromises, its discretion is not completely unfettered. *See Woodson v. Fireman's Fund Ins. Co. (In re Woodson)*, 839 F.2d 610, 620 (9th Cir. 1988). The trustee bears the burden of proving to the bankruptcy court that the settlement is fair and equitable and should be approved. *In re A&C Props.*, 784 F.2d at 1382.

The Court shall apply the A&C factors to the Third Compromise Motion.

A. The Probability of Success in the Underlying Litigation

The factor does not carry significant weight, but may weigh slightly in favor of approving the compromise. As noted in the compromise motion [Dkt. No 521., pgs. 25-26], Trustee would face arduous litigation if the claim objection were to be prosecuted. Nevertheless, the unusual complexity that the litigation would present is more appropriately considered under the third A&C factor. Given the complexity of the record, and the superficiality of the argument presented regarding the first factor in the compromise motion, the Court cannot conclude that this factor carries significant weight.

B. Difficulty of Collection

Trustee and Revere argue that this factor is irrelevant because Trustee is not attempting to collect from Revere. This argument appears to miss the principle behind the second A&C factor – whether, if successful, the Trustee would face obstacles in realizing value. Here, a reduction in the claim of Revere would, potentially, free up assets for distribution to administrative and unsecured claimants. The Court has not been presented with any clear evidence in the record to suggest that the subsequent liquidation of those assets would be unusually burdensome. Therefore, this factor weighs against settlement, although the Court only gives this factor minimal weight.

C. Complexity, Cost, Inconvenience and Delay of Litigation

For the reasons stated in the compromise motion [Dkt. No. 521], the declaration of Arturo Cisneros [Dkt. No 523], the declaration of Franklin Fraley [Dkt. No. 524], and the request for judicial notice [Dkt. No 525], prosecuting a claim objection against Revere would be extraordinarily costly and unusually complicated. Therefore, this

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CONT... **Douglas J Roger, MD, Inc., A Professional Corporat**
factor weighs in favor of settlement.

Chapter 7

D. Interest of Creditors

For the reasons stated in the compromise motion [Dkt. No 521, pgs. 27-28], and noting the lack of any opposition, the Court finds that this factor weighs in favor of the settlement. Specifically, the Court notes that the bankruptcy estate appears to be administratively insolvent at present, and it does not appear plausible, given the current state of the administration of the case, that the estate will become administratively solvent in the near future. Also noting that this case has been pending nearly six years, the Court is forced to conclude that the potential benefits offered by Revere pursuant to the settlement agreement, are, from the perspective of creditors, preferable to the instant quagmire.

Therefore, for the reasons stated above and for the reasons stated in the compromise motion [Dkt. No 521], the Court is inclined to find that the settlement agreement satisfies the *A&C Properties* factors.

II. Miscellaneous

The settlement contract and the liquidating trust agreement, a combined sixty-three pages, contain a number of minor drafting errors and inconsistencies. The Court is inclined to GRANT the compromise motion, noting, however, that: (a) any ambiguities or inconsistencies would likely be resolved against the drafter (i.e. Revere); and (b) any subsequent interpretation of the contract terms would be subject to a reasonableness test, with the Court retaining jurisdiction to interpret any dispute in terms.

An example of the former is that the compromise motion repeatedly oscillates between identifying an \$80,000 priority distribution and a \$75,000 priority distribution. [Dkt. No. 521, pgs. 10-12]. An example of the latter is the Court's continued interpretation to review the reasonableness of the "trust expense," as outlined in ¶ 3.10 of the liquidating trust agreement.

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CONT... Douglas J Roger, MD, Inc., A Professional Corporat
TENTATIVE RULING

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The Court is inclined to GRANT the motion, APPROVING the compromise in its entirety subject to the concerns raised above.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Movant(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

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11:00 AM

6:16-13311 Jose Antonio Hernandez

Chapter 7

#3.00 Notice of Trustee's Final Report and Applications for Compensation

EH ____

Docket 52

Tentative Ruling:

ANALYSIS

1. The Trustee's request for compensation.

Upon review of the Trustee's services, the Court finds that the statutory maximum is a reasonable request in this matter. In addition, the Court finds that the Trustee has properly calculated his fees, and approves of Trustee's voluntary reduction of the fees to be paid by the estate from \$5,750 to \$4,750.

The Court has reviewed Trustee's accounting of his expenses and finds them reasonable.

2. The Attorney for Trustee's request for compensation

Pursuant to 11 U.S.C. § 330(a)(1), the court may award reasonable compensation for actual, necessary services. The court has an independent duty to review the fee application in the absence of objections. *See* 11 U.S.C. § 330(a)(2). The court "will not indulge in extensive labor and guesswork to justify a fee for an attorney who has not done so himself." *In re Taylor*, 66 B.R. 390 (Bankr. W.D. Pa. 1986).

11 U.S.C. § 330(a)(3) provides factors to be considered in determining the reasonableness of requested compensation. These factors include time spent, rates charged, necessity of the service, reasonableness of the service, expertise of attorney, and comparable market rates.

Upon review of Counsel for Trustee's request for compensation, and taking into

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CONT...

Jose Antonio Hernandez

Chapter 7

account Counsel's voluntary reduction from \$58,370 requested for fees, to \$33,000 to be paid by the estate, the Court is inclined to find the services provided and the request for compensation generally reasonable. When making this determination, the Court takes particular note of the drawn out and relatively complex nature of the litigation faced by Counsel related to the fraudulent transfer of the home, the need to litigate in multiple cases, as well as the successful result of the litigation.

Upon review of Counsel for Trustee's request for, and accounting of, their expenses, the Court finds the request for expenses generally reasonable.

3. Accountant for Trustee's request for compensation

Upon review of the Accountant for Trustee's services, and his request for compensation, the Court finds the services provided and compensation requested to be generally reasonable, especially in light of the Accountant for Trustee's voluntary reduction of the fees to be paid from \$2,873.00 requested to \$1,573 to be paid by the estate.

The Court has reviewed Trustee's accounting of his expenses and finds them reasonable.

TENTATIVE RULING

Date: 7/10/2019

Opposition: No

Service: Proper

The applications for compensation of the Trustee and Counsel for the Trustee, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses to be paid by the estate:

Trustee Fees: \$ 4,750 (voluntarily reduced from the \$5,750 requested).

Trustee Expenses: \$ 250.60

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Attorney Fees: \$ 33,000 (voluntarily reduced from the \$58,370 requested)

Attorney Costs: \$1,918.47

Accountant Fees: \$ 1,573 (voluntarily reduced from the \$2,873.00 requested).

Accountant Costs: \$ 162.24

Bankruptcy Court charges: \$350.00

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Jose Antonio Hernandez

Represented By

Jessica De Anda Leon

Trustee(s):

Larry D Simons (TR)

Represented By

Frank X Ruggier

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6:16-20298 Donald Sutcliffe

Chapter 7

#4.00 Application to Employ Neiman Realty as Real Estate Broker

EH__

Docket 59

*** VACATED *** REASON: ORDER ENTERED 6/14/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donald Sutcliffe

Represented By
Christopher Hewitt

Movant(s):

John P Pringle (TR)

Represented By
D Edward Hays
David Wood
Tinho Mang

Trustee(s):

John P Pringle (TR)

Represented By
D Edward Hays
David Wood
Tinho Mang

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6:19-12819 Nevin Riad

Chapter 7

#5.00 Motion for Turnover of Property of the Estate

EH__

Docket 19

Tentative Ruling:

MOTION FOR TURNOVER

7/10/2019

BACKGROUND

Nevin Riad ("Debtor") filed a voluntary petition for Ch. 7 bankruptcy on April 4, 2019. Based on Debtor's claimed exemptions and secured debts, there does not appear to be any equity in the property which can be liquidated for the benefit of the estate.

Debtor filed her tax returns on April 10, 2019. They indicate that Debtor is expecting a total refund of \$7,383. These funds were not listed in Debtor's schedules. Trustee declares that Debtor testified at the § 341 meeting on May 6, 2019, that she had received the refunds post-petition. However, she was no longer in possession of the funds, as they had been spent on household necessities.

On May 7, 2019, Trustee emailed Debtor's counsel to demand turnover of the refunds and cash in the amount of \$1,200, which had not been claimed as exempt on Debtor's schedules. Trustee then filed this motion for turnover of property in the amount of \$7,383 on June 17, 2019.

Debtor opposes this motion, and declares that all the refunds were spent on household necessities. Debtor declares that her husband has been gravely ill for the past three months, and has been confined to either a hospital or rehabilitation facility due to a heart attack, organ failure, and internal bleeding, which has prevented him from working and drained the family of funds. She requests that the Court deny the motion

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CONT...

Nevin Riad

Chapter 7

to turnover the property, as it was all spent on necessities and no longer in possession of the Debtor. Debtor has provided a spreadsheet declaring how the funds were spent, which accounts for \$6,940.12 in spending on necessities. Debtor obtained part-time employment on May 9, 2019.

DISCUSSION

11 U.S.C. § 541(a)(1) states that all legal and equitable interests of the Debtor in property as of the time of petition are property of the estate. § 542(a) requires the turnover of all property of the estate to the Trustee which is not claimed as exempt under § 522, or is of inconsequential value or benefit to the estate.

Debtor had a legal or equitable interest in her tax returns as of the time of her petition for Chapter 7 bankruptcy. This rendered them property of the estate. As such, Debtor is required to turnover those funds to the Trustee.

TENTATIVE RULING

SERVICE: PROPER

OPPOSITION: YES

The Court is inclined to GRANT Trustee's request that Debtor turnover the sum of \$7,383 to the Trustee for the benefit of the estate.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Nevin Riad

Represented By
Daniel S March

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CONT... Nevin Riad

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Movant(s):

Todd A. Frealy (TR)

Pro Se

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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6:19-13267 Hallie Eubanks

Chapter 7

#6.00 Motion to vacate dismissal entered on 5/15/2019

EH__

Docket 25

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hallie Eubanks Pro Se

Movant(s):

Hallie Eubanks Pro Se

Trustee(s):

Larry D Simons (TR) Pro Se

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2:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:09-01235 DIAMOND v. Empire Partners, Inc., a California Corporation et

#7.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/13/19,
3/27/19, 5/8/19

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang
Robert M Saunders
Michael I. Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

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CONT... Empire Land, LLC

Chapter 7

David Loughnot
Jonathan A Loeb
Jeffrey Rosenfeld

DOES 1 through 100, inclusive

Pro Se

Plaintiff(s):

RICHARD K. DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder
John P. Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur
Alexander J Suarez

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

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6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#8.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
01/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/27/19,
3/27/19, 5/8/19

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang
Robert M Saunders
Michael I. Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

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CONT... Empire Land, LLC

Chapter 7

Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder

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CONT... Empire Land, LLC

Chapter 7

Cynthia M Cohen
Roye Zur
Alexander J Suarez

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

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6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01329 DIAMOND v. Empire Partners, Inc., a California Corporation et

#9.00 CONT Status Conference re complaint
(Defendant - Empire Partners, Inc) HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/13/27,
3/27/19, 5/8/19

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang
Robert M Saunders
Michael I. Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

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CONT... Empire Land, LLC

Chapter 7

	Jonathan A Loeb Jeffrey Rosenfeld
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld
Previti Realty Fund, L.P.	Represented By Jonathan A Loeb Jeffrey Rosenfeld
The James Previti Family Trust	Represented By Jonathan A Loeb Jeffrey Rosenfeld

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder
John P. Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur
Alexander J Suarez

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein

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Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

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2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01064 Gerges et al v. Bastorous et al

#10.00 CONT Status Conference Re: Adversary case 6:18-ap-01064. Complaint by Mona Gerges, Rafet Gerges, St. Mary Properties, LLC against Mark Bastorous, Bernadette Shenouda. 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

From: 5/9/18, 5/16/18, 7/11/18, 8/22/18, 10/31/18, 11/14/18, 1/30/19, 2/27/19, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

Mona Gerges

Represented By

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CONT... Mark Bastorous

Chapter 7

Louis J Esbin

Rafat Gerges

Represented By
Louis J Esbin

St. Mary Properties, LLC

Represented By
Louis J Esbin

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

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2:00 PM

6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

- #11.00** Defendant's Sangha's Motion to serve additional discovery requests (attached) and limited extension of discovery cutoff dates to obtain responses and resolve disputes regarding this additional discovery issuance of deposition subpoenas for City of San Jose Employees

EH ____

Docket 298

Tentative Ruling:

**MOTION TO EXTEND DISCOVERY DEADLINE AND FOR LEAVE OF COURT TO SERVE
ADDITIONAL DISCOVERY REQUESTS**

BACKGROUND

Debtor Narinder Sangha ("Debtor") filed a voluntary petition for Chapter 7 bankruptcy on April 18, 2013. Plaintiff Charles Schrader ("Plaintiff") filed a complaint against Debtor on April 25, 2013, seeking for a determination of nondischargeability of debt due to "willful and malicious" injury under 11 U.S.C. § 523(a)(6). Plaintiff holds a claim against Debtor based on a \$1.4 million state court default judgment against Debtor for defamation related to Plaintiff's attempt to seek employment with the City of San Diego's fire department.

The Court entered summary judgment on Plaintiff's behalf on July 8, 2014, finding that there was no issue of material fact that Debtor had "willfully and maliciously" injured Plaintiff on the grounds of issue preclusion. This was based on a finding that the state court had awarded punitive damages in its judgment against Debtor, and that punitive damages in relation to defamatory conduct required malice in fact under California law. The Bankruptcy Appellate Panel reversed the Court's granting of summary judgment on June 11, 2015, finding that intent to injure could not be inferred from a finding of malice in fact under California law, and that the state court's failure to give specific grounds for the punitive damages prevented the Court from automatically inferring that the punitive damages were granted due to Debtor's intent to injure the Plaintiff.

The 9th Circuit of Appeals affirmed the B.A.P. decision on February 24, 2017, and

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CONT...

Narinder Sangha

Chapter 7

remanded the matter to the Court for a decision on whether the default judgment and the allegations in Plaintiff's second amended complaint precluded prelitigation of whether the injury caused by Debtor had been "willful and malicious" under § 523(a) (6).

On March 15, 2019, the Court entered partial summary judgment in favor of the Plaintiff, finding that the issue of whether Debtor had "maliciously" injured Plaintiff was precluded by the state court judgment, while also holding that Plaintiff was not entitled to summary judgment as to whether Debtor had "willfully" injured Plaintiff.

Debtor filed a motion to reopen discovery on May 3, 2019. The Court entered an order on May 24, 2019, denying the motion as moot, as no discovery deadline had ever been set in the case, and setting the last day for discovery to be completed to July 31, 2019.

Debtor filed a request for admissions, requests for production, and interrogatories on June 28, 2019, as well as an attached motion to serve those additional discovery requests, as well as a limited extension of the discovery cutoff dates. The Court approved Debtor's request to set the hearing on shortened notice on July 2, 2019.

Debtor seeks to serve 17 interrogatories, 12 requests for production, and 9 requests for admissions, with the stated scope being limited to: disclosure of all evidence that Plaintiff seeks to introduce at trial on remand of the action, and all copies of prior discovery requests and pleadings. Debtor's justification for both is that Debtor has had multiple counsel in the matter, due to the long length of the litigation, and that the discovery requests and responses were maintained by those attorneys. As such, Debtor claims that he does not have access to those materials. In addition, Debtor requests leave of the Court to file the additional interrogatories and requests for admissions because he has no reasonable way to ascertain how many had been previously filed. Debtor also requests an extension of the discovery deadline, based on the claim that there is no reasonable way to resolve objections to the discovery requests before the cutoff date of July 31, 2019.

Charles Schrader ("Plaintiff") filed his opposition to Debtor's motion on July 8, 2019. Plaintiff opposes the motion on the basis that Debtor has not provided a proper basis to seek leave of the limits imposed by FRCP 33(a)(1). In addition, Plaintiff notes that Debtor lives less than four miles away from his former counsel, and questions why Debtor has no access to the prior discovery requests and responses from said counsel. Plaintiff also disputes Debtor's declaration that he attempted to meet and confer with Plaintiff to stipulate as to any potential discovery disputes, and also declares that he had no notice or service of the additional discovery requests. Plaintiff notes that Debtor's motion makes no reference to any discovery requests to the City of San Jose. Finally, Plaintiff also declares that he was not served with any application for an order

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CONT... Narinder Sangha

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setting a hearing on shortened notice, and that he has received no notice of scheduled hearings on the motion.

DISCUSSION

Courts have broad discretion under FRCP 26(b) and FRCP 33(a)(1) to expand the number of interrogatories, requests for discovery, and requests for admissions permitted within a case. The Court has general discretion under 11 U.S.C. § 105 to set and modify deadlines to complete discovery.

The Court begins by noting that the Court has not been provided of proof by Debtor that they gave telephonic notice of the hearing to Plaintiff, as required by the Court in its order on July 2nd, 2019. There does not appear to have been any written notice of the hearing given either. This failure to give notice of the hearing is fatal to Debtor's motion.

As to the merits: the Court notes that the requests for production and request for admissions filed with the Court are both incomplete, as only pages 1 and 5 of both documents have been filed with the Court. This prevents the Court from assessing Debtor's claim that these requests are limited solely to the disclosure of all evidence that Plaintiff seeks to introduce at trial.

Second, Debtor has not declared anything as to his attempts to collect the prior discovery requests and responses from his prior attorneys, and why those attorneys had not provided him with the case documents when they were substituted out of the case. This is particularly harmful to Debtor's motion in light of Plaintiff's declaration that Debtor's former counsel is located nearby to Debtor.

Third, Debtor has also not explained why he waited to the last minute to file this motion. Debtor has been aware of the discovery cutoff date since May 24, 2019, and yet waited until June 28, the last day Debtor had to obtain leave of court to file the requests. To make things worse, Debtor has also not provided a date to which the cutoff should be extended.

This matter has already been before the Court for more than six years. Yet, Debtor now seeks to delay the final resolution of the matter even further without explaining why it is necessary. As such, the Court is disinclined to exercise its discretion to give leave of Court to Debtor to serve their additional discovery requests, or to extend the discovery cutoff date.

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CONT... Narinder Sangha

Chapter 7

TENTATIVE RULING

7/10/2019

SERVICE: IMPROPER

OPPOSITION: YES

THE COURT IS INCLINED TO DENY MOVANT'S REQUEST FOR LEAVE OF THE COURT TO SERVE HIS ADDITIONAL DISCOVERY REQUESTS. DENY REQUEST TO EXTEND THE DISCOVERY CUTOFF DATE.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:13-29271 Dana Rene Hampton

Chapter 13

#1.00 Order To Show Cause Why Discharge Should Not Be Vacated

EH__

Docket 0

*** VACATED *** REASON: ORDER ENTERED 7/10/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dana Rene Hampton

Represented By
David Lozano

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:14-12971 Patrick Francis Westcott

Chapter 13

#2.00 Trustee's Motion to Dismiss Case

Also # 3

EH ____

Docket 172

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patrick Francis Westcott

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
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Thursday, July 11, 2019

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11:00 AM

6:14-12971 Patrick Francis Westcott

Chapter 13

#3.00 Trustee's Verified Motion for Clarification or Reconsideration of Order Awarding Fees

ALSO # 2

EH ____

Docket 173

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patrick Francis Westcott

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:14-16884 Robert M Lopez and Ashley Lopez

Chapter 13

#4.00 Motion For Order Denying Discharge Or Dismissing Case

EH__

Docket 73

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
6/24/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert M Lopez

Represented By
Anthony Wilaras

Joint Debtor(s):

Ashley Lopez

Represented By
Anthony Wilaras

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:17-19614 Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

#5.00 Application for Compensation for Andy C Warshaw, Debtor's Attorney, Period: 1/1/2018 to 4/11/2019, Fee: \$3640, Expenses: \$0

(Advanced from 8/22/19)

Also # 6

EH__

Docket 90

Tentative Ruling:

7/11/19

On November 20, 2017, Alfredo Arrieta & Mayte Hernandez-Arrieta (collectively "Debtors") filed a Chapter 13 voluntary petition. On February 8, 2018, Debtors' Chapter 13 plan was confirmed.

On April 22, 2019, Debtors' attorney, Andy Warshaw ("Counsel"), filed an application seeking \$3,640 in additional fees. Counsel's application seeks: (1) \$700 for opposing two motions to dismiss; (2) \$750 for the filing of a motion to modify plan; (3) \$1,950 for opposing a relief from stay motion and subsequently negotiating with the secured creditor; (4) \$150 for appearing at a relief from stay hearing; and (5) \$90 for preparation of the fee application. Trustee does not appear to oppose (1), (2), or (5). Regarding the \$150 appearance fee, the Court finds this fee to be reasonable given the unusual nature of the hearing which resulted in thirty minutes of oral argument.

Regarding (4), Trustee simply offers the generic argument that the fees appear excessive. Given the unusual nature of the relief from stay hearing (where there was significant confusion regarding the financial history of the debt and the payment history of the debtor), the Court finds the fees charged in (4) to be reasonable. Specifically, the time billed is predominantly related to untangling the financial history of the debt, and, after relief from stay was granted, negotiating

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CONT... Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta Chapter 13

with Creditor to achieve a resolution which would allow Debtors to retain the vehicle. None of these steps appear unnecessary, and the billing records of Counsel are sufficiently detailed for the Court to conclude that the entries are relatively reasonable.

The Court is inclined to GRANT the application in its entirety.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Joint Debtor(s):

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Movant(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:17-19614 Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

#6.00 Trustee's Motion to Dismiss Case

Also # 5

EH ____

Docket 97

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Joint Debtor(s):

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-14516 Gary Ray Osborn

Chapter 13

#7.00 CONT Application for Compensation of Fees and Costs filed by Doling Shaw & Hanover, APC in Accordance with Rule 2016(a); Memorandum of Receipts and Disbursements; Rule 2016(b) Statement; and Declaration of Summer M. Shaw in Support thereof with attached Exhibits 1 through 4 and Proof of Service for Summer M Shaw, Debtor's Attorney, Period: 3/30/2017 to 4/10/2019, Fee: \$27900.00, Expenses: \$557.98.

From: 6/27/19

EH__

Docket 59

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gary Ray Osborn

Represented By
Summer M Shaw
Jenny L Doling

Movant(s):

Gary Ray Osborn

Represented By
Summer M Shaw
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-19729 John R Saxton

Chapter 13

#8.00 Application for Compensation for Andy C Warshaw, Debtor's Attorney, Period: 11/21/2018 to 3/29/2019, Fee: \$3575, Expenses: \$0.00

EH ____

Docket 52

Tentative Ruling:

7/11/19

On November 16, 2018, John Saxton ("Debtor") filed a Chapter 13 voluntary petition. On April 30, 2019, Debtor's Chapter 13 plan was confirmed.

Prior to confirmation, Debtor filed five motions: (a) two motions to value property (regarding the same property and creditor) [Dkt. Nos. 9, 20] (the "Valuation Motion"); and (b) three motions to avoid liens [Dkt. Nos. 12-14] (the "Lien Avoidance Motions"). Out of the five motions, only one, the second motion to value property was granted; the other four motions were denied. Debtor's attorney, Andy Warshaw ("Counsel") now seeks \$1,250 for the Valuation Motion, and \$2,250 for the Lien Avoidance Motions. The Chapter 13 Trustee raises no objection to the fees requested on account of the Valuation Motion. Therefore, the Court will approve \$1,250 for fees related to the successful Valuation Motion.

Regarding the Lien Avoidance Motion, Trustee argues that Counsel should not be compensated because the motions did not benefit the estate. In a supplement filed June 24, 2019, Counsel primarily argues that the filing of the motions was authorized by Debtor, and that the motions could have been beneficial to the estate. In support of his argument, Counsel cites *In re Mednet*, 251 B.R. 103, 108 (B.A.P. 9th Cir. 2000), which states: "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."

Here, the Court cannot conclude that the Lien Avoidance Motions were reasonably

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CONT...

John R Saxton

Chapter 13

likely to benefit the estate at the time they were filed. The motions were ultimately denied as a matter of law. Specifically, as noted in the Court's orders [Dkt Nos. 37-38), the Court concluded that, as a matter of law, there was no lien because there was no basis under state law for the judgment to attach to Debtor's personal property. Given that there was no legal basis for the lien to attach, the motions to avoid liens could not have provided the bankruptcy estate any benefit.

Counsel briefly asserts, or implies, that the issue was not clear as a matter of law. Specifically, Counsel refers to an excerpt of the Court's tentative ruling which stated: "it is not clear from the Abstracts of Judgments what, if any, property the recorded judgments attach to." In the context of the paragraph in which the statement occurs, the statement means it is not clear what *Debtor* believes the judgment attached to; the tentative later finds, as a matter of law, that the judgment could not have attached to any property.

Pursuant to 11 U.S.C. § 330(a)(4), the Court cannot award compensation for services which were not reasonably likely to benefit the debtor or the estate and were not necessary to the administration of the case. Therefore, the Court is inclined to APPROVE the requested fees in the amount of \$1,250 and DISAPPROVE the requested fees in the amount of \$2,250.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

John R Saxton

Represented By
Andy C Warshaw

Movant(s):

John R Saxton

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:19-10484 Xavier C. Luna

Chapter 13

#9.00 Motion to Disallow Claims No. 9-1 re Riverside County Tax Collector

EH__

Docket 34

Tentative Ruling:

7/11/19

BACKGROUND:

On January 21, 2019, Xavier Luna ("Debtor") filed a Chapter 13 voluntary petition. On March 21, 2019, the Riverside County Tax Collector filed a proof of claim for a secured claim in the amount of \$4,181.55 ("Claim 9"). On May 2, 2019, Debtor's Chapter 13 plan was confirmed.

On June 6, 2019, Debtor filed an objection to Claim 9. Debtor argues that Claim 9 has been satisfied in full.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223

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CONT... Xavier C. Luna

Chapter 13

F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

In support of the instant claim objection, Debtor has provided a print-out of the Riverside County Tax Collector's 2018 Annual Secured Property Tax Report, which indicates that the claim which serves as the basis for Claim 9 has been satisfied.

For that reason, and noting the lack of opposition, which the Court deems consent to

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CONT... Xavier C. Luna

Chapter 13

the relief requested pursuant to Local Rule 9013-1(h),

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 9 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Xavier C. Luna

Represented By
Christopher J Langley

Movant(s):

Xavier C. Luna

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-14088 Julio Melchor Menendez

Chapter 13

#10.00 Confirmation of Chapter 13 Plan

EH __

Docket 90

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julio Melchor Menendez

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:19-11975 Sandraea La 'Jean Plummer

Chapter 13

#11.00 Confirmation of Chapter 13 Plan

EH __

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sandraea La 'Jean Plummer

Represented By
Cynthia A Dunning

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-12218 Keionna Marie Pitts

Chapter 13

#12.00 CONT Confirmation of Chapter 13 Plan

From: 6/6/19

EH __

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Keionna Marie Pitts

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-12281 Edward Lamont Samuels

Chapter 13

#13.00 CONT Confirmation of Chapter 13 Plan

From: 6/6/19

EH __

Docket 21

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edward Lamont Samuels

Represented By
Alon Darvish

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13123 Susana Olga Corona

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Susana Olga Corona

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13152 Gustavo Pena

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 5/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gustavo Pena

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-13154 Marcella E Radford

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 21

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marcella E Radford

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13171 Karen Ann Hurd

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Karen Ann Hurd

Represented By
Tom A Moore

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-13187 Jerry Arnold La Cues and Pamela Ann La Cues

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 4

***** VACATED *** REASON: CASE DISMISSED 7/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerry Arnold La Cues	Pro Se
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Joint Debtor(s):

Pamela Ann La Cues	Pro Se
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Trustee(s):

Rod Danielson (TR)	Pro Se
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11:00 AM

6:19-13211 Jorge Cervantes

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Cervantes

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13216 Ana Medina

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ana Medina

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13218 Sergio Gallardo, Jr.

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 25

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sergio Gallardo Jr.

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13241 Tonette Sherie Bell

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 5/6/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tonette Sherie Bell

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13288 Christian Flores

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christian Flores

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13314 Tamra Gillian Rehak

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tamra Gillian Rehak

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13328 Luis Antonio Gaeta

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 23

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Antonio Gaeta

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:19-13334 Rafael Gonzalez and Sonia Cardenas

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 54

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Joint Debtor(s):

Sonia Cardenas

Represented By
Henry D Paloci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13337 Terrence Waterton Holder and Shirley Veronica Holder

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Terrence Waterton Holder

Represented By
Michael E Clark

Joint Debtor(s):

Shirley Veronica Holder

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13374 Michael Arthur Eidsvoog and Kathyryn Michelle Eidsvoog

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Arthur Eidsvoog

Represented By
Todd L Turoci

Joint Debtor(s):

Kathyryn Michelle Eidsvoog

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:19-13402 Marcos Cano

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 5/15/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marcos Cano

Represented By
Claudia C Osuna

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-13415 Diane Tucker

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 5/13/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Diane Tucker

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13433 Tracy R. Franco

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/28/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tracy R. Franco

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13444 Humberto Picciotti

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 23

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Humberto Picciotti

Represented By
D Justin Harelik

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-13466 Orlando Zapata

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Orlando Zapata

Represented By
Michael D Luppi

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

11:00 AM

6:19-13484 Nicole Norcal

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 5/13/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicole Norcal

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:19-13499 Juan Manuel Andrade

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Manuel Andrade

Represented By
J.D. Cuzzolina

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:19-13500 Joe A Pickens, II

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joe A Pickens II

Represented By
William Radcliffe

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:19-13514 Michael Ray Sandoval

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Ray Sandoval

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:19-13525 John Gabriel Bravo and Wendee Leigh Smith

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Gabriel Bravo

Represented By
Daniel King

Joint Debtor(s):

Wendee Leigh Smith

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:19-13527 Martin Leonard Lopez

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martin Leonard Lopez

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:19-13560 Mark Spencer Yarbrough

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Spencer Yarbrough

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:00 AM

6:19-14141 Rafael Gonzalez and Sonia Cardenas

Chapter 13

#42.00 Order to show cause why Henry Paloci should not be sanctioned \$1000

CASE DISMISSED 6/24/19

EH__

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Joint Debtor(s):

Sonia Cardenas

Represented By
Henry D Paloci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:15-14501 Vonetta M Mays

Chapter 13

#43.00 CONT Trustee's Motion to Dismiss Case

From: 6/27/19

EH__

Docket 208

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED 7-2-19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vonetta M Mays

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:15-17561 Cresencio Ramirez Ramirez and Maria Olga Ramirez

Chapter 13

#44.00 CONT Trustee's Motion to Dismiss Case

From: 5/23/19, 6/6/19

EH__

Docket 153

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cresencio Ramirez Ramirez

Represented By
John F Brady

Joint Debtor(s):

Maria Olga Ramirez

Represented By
John F Brady

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:15-20998 Eric Kissell

Chapter 13

#45.00 Trustee's Motion to Dismiss Case

EH ____

Docket 85

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/3/2019

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eric Kissell

Represented By
William J Howell

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:16-10257 Cecilia Orozco and Sergio Orozco

Chapter 13

#46.00 CONT Trustee's Motion to Dismiss Case

From: 5/9/19

EH__

Docket 51

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cecilia Orozco

Represented By
Majid Safaie
Manfred Schroer

Joint Debtor(s):

Sergio Orozco

Represented By
Majid Safaie
Manfred Schroer

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:16-11877 Allan Martin Borgen

Chapter 13

#47.00 Trustee's Motion to Dismiss Case

EH _____

Docket 75

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allan Martin Borgen

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:16-14440 Michael Douglas Guerino and Xochitl Rodriguez Guerino

Chapter 13

#48.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19, 5/23/19

EH__

Docket 88

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Douglas Guerino

Represented By
J.D. Cuzzolina

Joint Debtor(s):

Xochitl Rodriguez Guerino

Represented By
J.D. Cuzzolina

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:16-15668 Roger C Jefferson

Chapter 13

#49.00 CONT Trustee's Motion to Dismiss Case

From: 5/23/19

EH__

Docket 111

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roger C Jefferson

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:16-16910 Noryvir Frondoza Bequilla

Chapter 13

#50.00 Trustee's Motion to Dismiss Case

EH ____

Docket 59

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/1/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Noryvir Frondoza Bequilla

Represented By
Scott Kosner

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:16-18621 John Wesley Wilson, Jr. and Michelle Janet Wilson

Chapter 13

#51.00 Trustee's Motion to Dismiss Case

EH ____

Docket 61

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Wesley Wilson Jr.

Represented By
Julie J Villalobos

Joint Debtor(s):

Michelle Janet Wilson

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:17-13539 Albert Granados

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH ____

Docket 51

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Albert Granados

Represented By
Jonathan D Doan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:17-16667 Linda Revoner

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH ____

Docket 54

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Linda Revoner

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:17-17589 Ryan Patrick McHugh and Jennifer Lynne McHugh

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH ____

Docket 91

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Joint Debtor(s):

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:17-17612 Jose Guadalupe Sandoval

Chapter 13

#55.00 Trustee's Motion to Dismiss Case

EH ____

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Guadalupe Sandoval

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:17-20489 Michael S McGowan and Brandy L McGowan

Chapter 13

#56.00 CONT Trustee's Motion to Dismiss Case

From: 6/27/19

EH__

Docket 51

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael S McGowan

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Brandy L McGowan

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:18-10825 William Thomas Pedrino and Terri Lyn Pedrino

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH ____

Docket 80

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William Thomas Pedrino

Represented By
Todd L Turoci

Joint Debtor(s):

Terri Lyn Pedrino

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:18-11432 Armando Guzman

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH ____

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Armando Guzman

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:18-11652 Gwendolyn Priscilla Saunders

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH ____

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gwendolyn Priscilla Saunders

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:18-12022 Maribel M Vasquez

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH ____

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maribel M Vasquez

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:18-12579 Deborah Ann Pardo

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH ____

Docket 38

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Deborah Ann Pardo

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:18-18739 Heather Gibson

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH ____

Docket 39

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heather Gibson

Represented By
Natalie A Alvarado

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:18-19183 Carmen Lynn Chilson

Chapter 13

#63.00 Trustee's Motion to Dismiss Case

EH ____

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carmen Lynn Chilson

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:18-20200 Denise Cherie Darden

Chapter 13

#64.00 Trustee's Motion to Dismiss Case

EH _____

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denise Cherie Darden

Represented By
Julie Philippi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:18-20296 Daniel Lee Crump

Chapter 13

#65.00 Trustee's Motion to Dismiss Case

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Lee Crump

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:18-20644 Terry E Crossley and Janell Crossley

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH ____

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Terry E Crossley

Represented By
Christopher J Langley

Joint Debtor(s):

Janell Crossley

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, July 11, 2019

Hearing Room 303

11:01 AM

6:19-11041 Caleb J. Bellot and Mandle Lynn Bellot

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH ____

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Caleb J. Bellot

Represented By
Daniel King

Joint Debtor(s):

Mandle Lynn Bellot

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 301 Calendar**

Thursday, July 11, 2019

Hearing Room 301

11:01 AM

6:17-20487 Ann Marie Smith

Chapter 13

#68.00 Trustee's Motion to Dismiss Case

EH ____

Docket 90

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ann Marie Smith

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:18-12170 Pamela Ann Harris

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1939 Prince Albert Drive, Riverside, CA 92507

MOVANT: SELECT PORTFOLIO SERVICING INC.

EH__

Docket 84

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the negotiations for an adequate protection order.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Pamela Ann Harris

Represented By
Halli B Heston

Movant(s):

Wilmington Trust, NA, successor

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

CONT... Pamela Ann Harris

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:18-12822 Cynthia Miller

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15036 Daffodil Circle, Fontana, CA 92336

MOVANT: WILMINGTON TRUST, NATIONAL ASSOCIATION

EH ____

Docket 62

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of negotiations as to an adequate protection order.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Cynthia Miller

Represented By
Richard L Barrett

Movant(s):

Wilmington Trust, National

Represented By
Dipika Parmar
Jennifer C Wong
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

CONT... Cynthia Miller

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:18-17681 Cameron Hudson

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 10259 Jenny St., Oak Hills, CA 92344

MOVANT: HOMESTREET BANK

EH ____

Docket 56

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to foreclose and sell the property. GRANT request under ¶ 3 to enter into, at the Creditor's option, a forbearance, loan modification, refinance, or other agreement with the Debtor. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Cameron Hudson

Represented By
Stuart R Simone

Movant(s):

HomeStreet Bank

Represented By
Mark S Krause

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

CONT... Cameron Hudson

Erin M McCartney

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:19-11919 Ramiro Delgado Flores

Chapter 7

#4.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 8083 Surrey Lane, Alta Loma, CA 91701

MOVANT: U.S. BANK NATIONAL ASSOCIATION

From: 5/28/19, 6/25/19

EH__

Docket 25

Tentative Ruling:

5/28/2019

Service is Proper
Opposition: Yes

The Court is inclined to GRANT relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1). GRANT to movant to proceed under applicable nonbankruptcy law to enforce its remedies. GRANT waiver of 14-day stay prescribed by FRBP 4001(a)(3). GRANT the Debtor be defined as a borrower pursuant to Cal. Civ. Code § 2920.5(c) (2)(C).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ramiro Delgado Flores

Represented By
Andrew S Bisom

Movant(s):

U.S. Bank National Association, as

Represented By
Darren J Devlin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

CONT... Ramiro Delgado Flores

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:19-12938 RAMON URIETA

Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1515 17th Street, Los Osos, CA 93402-1824

MOVANT: ROUNDPOINT MORTGAGE SERVICING CORPORATION

EH ____

Docket 14

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Improper
Opposition: None

The Court first notes that Creditor has failed to serve the motion on the Debtor, the senior lienholder, Foundation Conveyancing, LLC, or the judgment lienholder, GCFS. This is in violation of the service requirements for motions for relief from the automatic stay under LBR 4001-1(c)(1)(C). While the Court recognizes that Debtor has disclaimed any interest in the Property, which would also mean this motion does not constitute relief sought as to property of the estate, the final determination that the Property is not property of the estate has not yet been made by the Court. However, the Court does not find that the defects in service are fatal to Creditor's motion.

The Court is thus inclined to GRANT relief from the automatic stay pursuant to § 362(d)(1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. DENY request for confirmation that that there is no stay in effect. GRANT relief from Rule 4001 stay. DENY request for a designated law enforcement officer to evict Debtor and any other occupant from the Property for a period of 180 days from the hearing on the motion. GRANT request for relief under § 364(d)(4) that the order be binding, if properly recorded, in any other case under the title purporting

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

CONT... RAMON URIETA

Chapter 7

to affect the Property filed not later than 2 years after the date of entry of the order by this Court. GRANT request that the order is binding and effective in any bankruptcy case commence by or against any debtor who claims any interest in the Property for a period of 180 days from the hearing on the motion upon recording of a copy of the order or giving other appropriate notice. DENY request for adequate protection in the alternative as MOOT. On the facts before the Court, and without notice to Debtor, the Court makes no finding of bad faith as to the Debtor.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

RAMON URIETA

Represented By
David A Akintimoye

Movant(s):

RoundPoint Mortgage Servicing

Represented By
Craig N Haring

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:19-13877 Eric Felixberto Belarmino and Karla Johanna Bendana

Chapter 7

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 FORD MUSTANG

MOVANT: FORD MOTOR CREDIT COMPANY, LLC.

EH ____

Docket 11

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Eric Felixberto Belarmino

Represented By
Javier H Castillo

Joint Debtor(s):

Karla Johanna Bendana

Represented By
Javier H Castillo

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

CONT... Eric Felixberto Belarmino and Karla Johanna Bendana

Chapter 7

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:19-13916 Magdaleno Betancourt and Maria De La Luz Betancourt

Chapter 7

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA ACCORD

MOVANT: HONDA LEASE TRUST

EH ____

Docket 13

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Magdaleno Betancourt

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Maria De La Luz Betancourt

Represented By
Rabin J Pournazarian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

CONT... Magdaleno Betancourt and Maria De La Luz Betancourt

Chapter 7

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:19-14299 Edgar Alejandro Vargas-Ramirez and Maria Del San Juan

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Ford Explorer

MOVANT: FORD MOTOR CREDIT COMPANY, LLC

EH ____.

Docket 20

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Edgar Alejandro Vargas-Ramirez

Represented By
George C Panagiotou

Joint Debtor(s):

Maria Del San Juan Jimenez-

Represented By
George C Panagiotou

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

CONT... Edgar Alejandro Vargas-Ramirez and Maria Del San Juan

Chapter 7

Movant(s):

Ford Motor Credit Company LLC

Represented By
Sheryl K Ith
Jennifer H Wang

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:19-14991 Juan De Jesus Gutierrez

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 HYUNDAI GENESIS

MOVANT: MECHANICS BANK, A CALIFORNIA BANKING CORPORATION

EH ____

Docket 9

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Juan De Jesus Gutierrez

Represented By
James Geoffrey Beirne

Movant(s):

MECHANICS BANK

Represented By
Vincent V Frounjian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

CONT... Juan De Jesus Gutierrez

Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:19-15330 Charles Dennis West

Chapter 13

#10.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 35662 Crossroads St Wildomar CA 92595

MOVANT: CHARLES DENNIS WEST

EH ____

Docket 14

Tentative Ruling:

TENTATIVE RULING:

7/16/2019

Service is Proper
Opposition: None.

The Court begins by noting that Debtor's failure to file the required case commencement documents in his prior Ch. 7 bankruptcy case prevents the Court from comparing the schedules of that petition to those of the current petition. This complicates the Court's ability to review whether the Debtor has undergone a substantial change in his financial or personal affairs.

This is not aided by the fact that Debtor's motion states that Debtor's son is currently contributing \$350 per month for the use of Debtor's Prius, while Debtor's Schedule I provides for \$1,350 in contributions from Debtor's son. This is not an inconsequential difference when Debtor's net monthly income is only \$1,182.88, and the Ch. 13 plan provides for \$1,158.00 monthly payments. If the Debtor is only receiving \$350 from his son per month, then he does not have enough disposable income to fund a plan.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

CONT... Charles Dennis West

Chapter 13

Debtor(s):

Charles Dennis West

Represented By
Erika Luna

Movant(s):

Charles Dennis West

Represented By
Erika Luna

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:19-12899 Juan Manuel Gutierrez-Montes

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 HYUNDAI GENESIS

MOVANT: MECHANICS BANK, A CALIFORNIA BANKING CORPORATION

EH ____

Docket 10

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Juan Manuel Gutierrez-Montes

Represented By
James Geoffrey Beirne

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

10:00 AM

6:19-15583 Kimberly Sinai Novelo

Chapter 7

#11.10 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 11964 Cliffrose Court, Adelanto, CA

MOVANT: IRAJ & JILA RABBINI FAMILY TRUST

EH ____

Docket 9

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper

Opposition: N/A (shortened notice)

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to foreclose and sell the property. GRANT relief from Rule 4001 stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Kimberly Sinai Novelo

Pro Se

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#12.00 Insurance Company of the West 's Notice of Motion and Motion for Summary Judgment or, In the Alternative, for Attorneys' Fees and Costs Pursuant to the Common Fund Doctrine

EH__

Docket 74

***** VACATED *** REASON: CONTINUED TO 9/17/19 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

United states of america

Represented By
Charles Parker
Najah J Shariff

Carlin Law Group APC

Represented By
Kevin R Carlin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

CONT... ASR Constructors Inc a California Corporation

Chapter 11

DOES 1 through 10, inclusive

Pro Se

Movant(s):

Insurance Company Of The West

Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Plaintiff(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#13.00 Motion for Order Authorizing the Debtor to Execute Agreements re: Sale of Non-Debtor Assets of Gibraltar Graphics, Inc

Also #14-17

EH ____

Docket 159

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#14.00 First Interim Fee Application of Terzian Law Group, A Professional Corporation, Attorney for Debtor and Debtor in Possession for Tamar Terzian, Debtor's Attorney, Period: 7/23/2018 to 6/15/2019, Fee: \$57487.50, Expenses: \$3178.12.

Also # 13, #15-17

EH ____

Docket 160

***** VACATED *** REASON: CONTINUED TO 8/27/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#15.00 Debtor's Motion to Dismiss Chapter 11 Case

Also #13-14, #16-17

EH ____

Docket 162

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#16.00 CONT United States Trustee's Motion to Dismiss Case or to Convert Case

From: 5/28/19

Also #13-15, #17

EH__

Docket 138

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

United States Trustee (RS)

Represented By
Everett L Green
Abram Feuerstein esq

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#17.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 8/21/18, 10/16/18, 12/4/18, 12/18/18, 1/15/19, 2/5/19, 4/16/19, 5/28/19

Also #13 -16

EH __

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#18.00 CONT Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Causes of Action .

MOVANT: ANDRZEJ LUCZYNSKI AND Z&M TRADING, INC.

From: 4/16/19, 4/30/19, 5/21/19, 6/11/19; 6/25/19

Also #19

EH__

Docket 38

***** VACATED *** REASON: CONTINUED TO 7/30/19 AT 2:00 P.M.**

Tentative Ruling:

4/30/2019

Service: Proper
Opposition: Yes.

On February 19, 2019, Anthony Yue Ming Liu ("Debtor") filed a Chapter 11 voluntary petition. On Schedule F, Debtor listed Andrzej Luczynski ("Movant") as the holder of an unsecured claim of \$1,380,000 relating to a civil lawsuit.

On March 12, 2019, Movant filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for tortious exclusion of joint venturer, breach of fiduciary duty, breach of contract, and wrongful eviction. A state court hearing on Debtor's objections to the tentative decision and proposed judgment had been scheduled for February 20, 2019, but was ultimately postponed due to the instant bankruptcy filing. It appears from the contents of the motion that Movant is only requesting to have the state court enter judgment, thereby liquidating Movant's claim.

On April 2, 2019, Debtor filed his opposition. The crux of Debtor's opposition is that the relief from the automatic stay is unnecessary because Movant's claim has been

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

CONT...

Anthony Yue Ming Liu

Chapter 11

effectively liquidated. Debtor notes that "[t]he only issue remaining is a determination of any costs and attorney's fees, which Debtor has attempted to review for reasonableness in hopes that the parties could avoid unnecessary litigation and expenses regarding the same." [Dkt. No. 49, pg. 4, lines 10-12]. On April 9, 2019, Movant filed a reply, effectively arguing that Debtor's opposition does not contain a legal basis upon which relief from stay could be denied.

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

- (1) Whether the relief will result in a partial or 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 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 good or proceeds in question; (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties; (8) whether the judgment claim arising from the foreign action is subject to equitable subordination; (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). *In Roger*, the Court further stated:

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

CONT...

Anthony Yue Ming Liu

Chapter 11

litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all.

Here, the *Curtis* factors weigh in favor of granting relief from the automatic stay. First, the relief requested would result in a complete resolution of the issues. Debtor's argument that relief from stay is not necessary to resolve the issue, because the issue could be resolved through the claim objection process in bankruptcy court, is not persuasive to the Court because it does not directly address the first *Curtis* factor and because, presumably, the state court is in a better position to assess the reasonableness of the fees and costs incurred in its own proceedings. Likewise, the second factor weighs in favor of the relief requested because the entry of a judgment in state court will not interfere with the administration of the bankruptcy estate. Debtor has not raised a plausible argument contending otherwise. A choice by Debtor to possibly incur attorney fees arguing the amount of Movant's fees and costs incurred in the state court proceeding does not constitute interference with the administration of the bankruptcy estate. Finally, the Court finds that the tenth through twelfth *Curtis* factors weigh in favor of granting relief from stay, because the state court proceeding progressed to the point where it was ready for trial, and the state court is in a better position to judge the reasonableness of the fees and costs incurred in its own proceeding.

The Court finds that the third through ninth *Curtis* factors are largely irrelevant in this situation and do not materially affect the Court's analysis. Additionally, the Court is not inclined to find that the instant bankruptcy was filed in bad faith. Movant's only argument made to support a bad faith finding is that the instant case was filed on the eve of the anticipated state court judgment. Noting that Debtor scheduled Movant's claim and does not appear to be attempting to undermine the state court proceeding, the Court cannot conclude that Debtor is acting on bad faith simply because he is attempting to satisfy Movant's claim through a Chapter 11 plan of reorganization.

The Court is inclined to GRANT request for relief pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a) stay. GRANT request under ¶ 2. DENY request for relief under ¶ 7 for lack of cause shown.

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

CONT... Anthony Yue Ming Liu

Chapter 11

APPEARANCES REQUIRED

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Courtesy NEF

Represented By
Dawn M Coulson
Paul M Stoddard
Mark W Edelstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 16, 2019

Hearing Room 303

2:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#19.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 3/26/19; 6/25/19

Also #18

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 17, 2019

Hearing Room 303

10:00 AM

6:19-10853 Jo Dee Bennett

Chapter 7

#1.00 Pro se Reaffirmation Agreement Between Debtor and BMW Bank of North America re 2016 BMW XI Utility 4D

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jo Dee Bennett

Pro Se

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 17, 2019

Hearing Room 303

10:00 AM

6:19-11926 Amber Michelle Perez

Chapter 7

#2.00 CONT Pro se Reaffirmation Agreement Between Debtor and Santander Consumer USA Inc. re 19 Hyundai Elantra

From: 6/12/19; 6/26/19

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Amber Michelle Perez

Pro Se

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 17, 2019

Hearing Room 303

10:00 AM

6:19-12591 Woodie Paul Thomas

Chapter 7

#3.00 Pro se Reaffirmation Agreement Between Debtor and Americredit Financial Services, Inc. Dba GM Financial re 2015 Mazda3

EH__

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodie Paul Thomas

Represented By
Norma Duenas

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 17, 2019

Hearing Room 303

10:00 AM

6:19-12732 Armando Gutierrez

Chapter 7

**#4.00 Pro se Reaffirmation Agreement Between Debtor and ONEMAIN FINANCIAL re
2002 GMC**

EH__

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Armando Gutierrez

Represented By
Daniel King

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 17, 2019

Hearing Room 303

10:00 AM

6:19-13256 Joshua Adrian Mora and Marisol Mora

Chapter 7

#5.00 Pro se Reaffirmation Agreement Between Debtor and Alaska USA Federal Credit Union re: 2016 Dodge Grand Caravan

EH _____

Docket 13

***** VACATED *** REASON: AMENDED REAFFIRMATION FILED
6/4/19 WITH ATTORNEY CERTIFICATION**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Adrian Mora

Represented By
David A Wiesen

Joint Debtor(s):

Marisol Mora

Represented By
David A Wiesen

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 17, 2019

Hearing Room 303

10:00 AM

6:19-13715 Jessica Lynn Guzman

Chapter 7

#6.00 Pro se Reaffirmation Agreement Between Debtor and Alaska USA Federal Credit Union re: 2012 Nissan Sentra-4 CYL

EH ____

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jessica Lynn Guzman

Represented By
Norma Duenas

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 17, 2019

Hearing Room 303

10:00 AM

6:19-13737 Maria A Portillo Hernandez

Chapter 7

#7.00 Pro Se Reaffirmation Agreement Between Debtor and CarMax Auto Finance re:
2011 Chevrolet Silverado 1500

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria A Portillo Hernandez

Represented By
Marlin Branstetter

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 17, 2019

Hearing Room 303

11:00 AM

6:17-17749 Joshua Cord Richardson

Chapter 7

#8.00 Chapter 7 Trustees Notice of Motion and Motion for Order: (1) Requiring Debtor to Turn Over the Real Property Located at 13710 Oakley Drive, Moreno Valley, CA 92555; and (2) Directing The United States Marshal to Evict the Debtor and Any Third Parties from the Real Property

Also #9

EH ____

Docket 89

Tentative Ruling:

7/17/19

BACKGROUND

On September 15, 2017, Cleo Sonnenfeld ("Creditor") filed a Chapter 7 involuntary petition against Joshua Richardson ("Debtor"). On November 8, 2017, an order for relief was entered after Debtor stipulated to its entry. That same day, the Court entered an order approving a stipulation between Creditor, Debtor, and HLE Law Group ("HLE") which avoided a deed of trust recorded on June 20, 2017, in favor of HLE and against certain real property located at 13710 Oakley Dr., Moreno Valley, CA 92555 (the "Property").

On November 8, 2018, Trustee filed a motion to approve compromise; after two continuances, and the filing of a supplemental brief, the motion was granted pursuant to order entered January 3, 2019. The pertinent terms of the compromise are the following: (a) the Property is held in constructive trust for the benefit of Creditor, who holds a money judgment in the amount of \$318,778.12; (b) Trustee is to sell the Property; (c) the funds otherwise payable on account of the avoided HLE lien constitute property of the estate; and (d) the bankruptcy estate shall receive 30% of all

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Wednesday, July 17, 2019

Hearing Room 303

11:00 AM

CONT... **Joshua Cord Richardson**

Chapter 7

sale proceeds in excess of \$303,000 until such amount reaches \$25,000. On February 6, 2019, Creditor objected to Debtor's claimed homestead exemption; the objection was sustained on March 1, 2019.

On June 26, 2019, Trustee filed: (1) a motion for sale of the Property and related relief; and (2) a motion requiring Debtor to turn over the Property. Regarding the former, Trustee proposes to sell the Property to Hung Tien & Dau Nguyen for \$356,000. Pursuant to the terms of the sale motion, the sale proceeds would be distributed as follows: (a) \$28,480 for closing costs; (b) approximately \$200,000 on account of the lien recorded in favor of the Samir & Mona Sanghani Living Trust 2014; (c) \$50,000 for the bankruptcy estate; and (d) \$77,520 to Creditor.

The Court has not received opposition to either motion.

DISCUSSION

A. Sale Motion

I. Sale of Estate Property

11 U.S.C. § 363(b)(1) allows a trustee to sell property of the estate outside of the ordinary course, after notice and a hearing. A sale pursuant to § 363(b) requires a demonstration that the sale has a valid business justification. *In re 240 North Brand Partners, Ltd.*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996). "In approving any sale outside the ordinary course of business, the court must not only articulate a sufficient business reason for the sale, it must further find it is in the best interest of the estate, i.e. 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." *In re Wilde Horse Enters., Inc.*, 136 B.R.

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The declaration of Trustee's real estate agent contains evidence of the Property's substantial marketing, indicating that the Property was listed on many websites, that Trustee received fifty-five inquiries regarding the Property, and that three offers were ultimately received. Given the fact that the sale appears to be a good faith, arms-length transaction, and the fact that it appears that the sale will result in a meaningful distribution for creditors, the Court concludes that Trustee has articulated an adequate business reason for the sale.

II. *Sale Free & Clear of Liens*

11 U.S.C. § 363(f) (2010) states:

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if-

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

Here, three parties hold or held an interest in the Property. Two of the parties, HLE

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and Creditor, have consented to the relief requested in the motion pursuant to a stipulation or compromise executed in the instant case. The third party, the Samir & Mona Sanghani Living Trust 2014, holds a lien which is less than the sale price and which will be satisfied in full from the sale proceeds. Therefore, § 363(f)(2) and (3) permit Trustee to sell the Property free and clear of liens.

III. *14-Day Stay*

FED. R. BANKR. P. Rule 6004(h) states: "An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Court deems the absence of objections to be consent to the relief requested, pursuant to Local Rule 9013-(1)(h), and, therefore, will waive the stay of Rule 6004(h).

IV. *Miscellaneous Provisions*

The Court has reviewed the remainder of Trustee's miscellaneous requests. Regarding the overbidding procedures, the Court has reviewed the proposed overbidding procedures and finds said procedures to be reasonable.

Regarding the broker's compensation, the motion provides for a broker's commission of 6%, a customary amount which the Court deems reasonable.

Regarding Trustee's request for a good faith determination pursuant to § 363(m), the Court notes that Trustee has provided a declaration of the Purchasers, which, in combination with the other evidence submitted in support of the motion, is sufficient to warrant a good faith finding.

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B. *Turnover Motion*

11 U.S.C. § 542(a) states:

Except as provided in subsection (c) or (d) of this section, 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, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

The standard for a turnover action is well established:

"To prevail in a turnover action under § 542, the party seeking turnover must establish (1) that the property is or was in the possession, custody or control of an entity during the pendency of the case, (2) that the property may be used by the trustee in accordance with § 363 or exempted by the debtor under § 522; and (3) that the property has more than inconsequential value or benefit to the estate."

In re Bailey, 380 B.R. 486, 490 (B.A.P. 6th Cir. 2008); *see also In re Newman*, 487 B.R. 193 (B.A.P. 9th Cir. 2013).

Here, Trustee's motion clearly satisfies the requirements for turnover. First, it is uncontroverted that Debtor occupied the Property during the pendency of the case

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(and appears to have still occupied the Property at the time of the filing of the motion). Second, Trustee filed a motion to sell the Property prior to filing the instant turnover motion. Third, as established in the sale motion, the sale of the property will generate a material benefit to the estate (\$50,000). For those reasons, and noting the lack of any opposition to the instant motion, the Court concludes that turnover is warranted.

Trustee also requests that the turnover order enable Trustee to deploy the United States Marshal to evict Debtor and any other occupant if they have not vacated by the entry of the order. In support of this request, Trustee notes that Debtor was informed on June 6, 2019, that Trustee would be selling the Property. Legally, Trustee relies on FED. R. CIV. P. Rule 70, incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9014(c), which states, in pertinent part:

- (a) If a judgment requires a party to convey land, to deliver a deed or other document, or to perform any other specific act and the party fails to comply within the time specified, the court may order the act to be done – at the disobedient party’s expense – by another person appointed by the court. When done, the act has the same effect as if done by the party.
- (d) On application by a party who obtains a judgment or order for possession, the clerk must issue a writ of execution or assistance.

Here, Trustee has not provided a clear rationale or justification to explain the necessity of employing this unusual remedy simultaneously with the entry of the turnover order. Because this proceeding does not contain the same notice and service requirements as an adversary proceeding, in which FED. R. CIV. P. Rule 70 is automatically applicable, and noting the lack of any evidence that Debtor has been uncooperative with the process, the Court is not inclined to approve this additional request.

TENTATIVE RULING

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Chapter 7

The Court is inclined to GRANT the sale motion in its entirety and GRANT the turnover motion to the extent of ordering turnover. In the absence of supplemental evidence establishing the necessity of immediately authorizing the Marshals to evict Debtor, the Court is inclined to DENY the request to authorize the Marshals to forcibly evict Debtor.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Movant(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

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6:17-17749 Joshua Cord Richardson

Chapter 7

#9.00 Chapter 7 Trustees Motion for Order: (1) Authorizing Sale of Real Property Free and Clear of Liens; (2) Approving Overbid Procedure; (3) Approving Payment of Real Estate Brokers Commissions; and (4) Finding Purchasers are Good Faith Purchasers

Also #8

EH ____

Docket 86

Tentative Ruling:

7/17/19

BACKGROUND

On September 15, 2017, Cleo Sonnenfeld ("Creditor") filed a Chapter 7 involuntary petition against Joshua Richardson ("Debtor"). On November 8, 2017, an order for relief was entered after Debtor stipulated to its entry. That same day, the Court entered an order approving a stipulation between Creditor, Debtor, and HLE Law Group ("HLE") which avoided a deed of trust recorded on June 20, 2017, in favor of HLE and against certain real property located at 13710 Oakley Dr., Moreno Valley, CA 92555 (the "Property").

On November 8, 2018, Trustee filed a motion to approve compromise; after two continuances, and the filing of a supplemental brief, the motion was granted pursuant to order entered January 3, 2019. The pertinent terms of the compromise are the following: (a) the Property is held in constructive trust for the benefit of Creditor, who holds a money judgment in the amount of \$318,778.12; (b) Trustee is to sell the Property; (c) the funds otherwise payable on account of the avoided HLE lien constitute property of the estate; and (d) the bankruptcy estate shall receive 30% of all

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The Court has not received opposition to either motion.

DISCUSSION

A. Sale Motion

I. Sale of Estate Property

11 U.S.C. § 363(b)(1) allows a trustee to sell property of the estate outside of the ordinary course, after notice and a hearing. A sale pursuant to § 363(b) requires a demonstration that the sale has a valid business justification. *In re 240 North Brand Partners, Ltd.*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996). "In approving any sale outside the ordinary course of business, the court must not only articulate a sufficient business reason for the sale, it must further find it is in the best interest of the estate, i.e. 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." *In re Wilde Horse Enters., Inc.*, 136 B.R.

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IV. *Miscellaneous Provisions*

The Court has reviewed the remainder of Trustee's miscellaneous requests. Regarding the overbidding procedures, the Court has reviewed the proposed overbidding procedures and finds said procedures to be reasonable.

Regarding the broker's compensation, the motion provides for a broker's commission of 6%, a customary amount which the Court deems reasonable.

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B. *Turnover Motion*

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Here, Trustee's motion clearly satisfies the requirements for turnover. First, it is uncontroverted that Debtor occupied the Property during the pendency of the case

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Chapter 7

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Trustee also requests that the turnover order enable Trustee to deploy the United States Marshal to evict Debtor and any other occupant if they have not vacated by the entry of the order. In support of this request, Trustee notes that Debtor was informed on June 6, 2019, that Trustee would be selling the Property. Legally, Trustee relies on FED. R. CIV. P. Rule 70, incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9014(c), which states, in pertinent part:

- (a) If a judgment requires a party to convey land, to deliver a deed or other document, or to perform any other specific act and the party fails to comply within the time specified, the court may order the act to be done – at the disobedient party’s expense – by another person appointed by the court. When done, the act has the same effect as if done by the party.
- (d) On application by a party who obtains a judgment or order for possession, the clerk must issue a writ of execution or assistance.

Here, Trustee has not provided a clear rationale or justification to explain the necessity of employing this unusual remedy simultaneously with the entry of the turnover order. Because this proceeding does not contain the same notice and service requirements as an adversary proceeding, in which FED. R. CIV. P. Rule 70 is automatically applicable, and noting the lack of any evidence that Debtor has been uncooperative with the process, the Court is not inclined to approve this additional request.

TENTATIVE RULING

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CONT... Joshua Cord Richardson

Chapter 7

The Court is inclined to GRANT the sale motion in its entirety and GRANT the turnover motion to the extent of ordering turnover. In the absence of supplemental evidence establishing the necessity of immediately authorizing the Marshals to evict Debtor, the Court is inclined to DENY the request to authorize the Marshals to forcibly evict Debtor.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Movant(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

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6:18-20371 Francisco Hernandez Gonzalez

Chapter 7

#10.00 Notice of Trustee's Final Report and Applications for Compensation

EH ____

Docket 26

Tentative Ruling:

7/17/2019

No opposition has been filed.
 Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,392.40
 Trustee Expenses: \$ 0.00

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Francisco Hernandez Gonzalez	Pro Se
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Trustee(s):

Arturo Cisneros (TR)	Pro Se
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6:17-15809 Beatrice A Diaz

Chapter 7

#10.10 Notice of Motion and Motion of Chapter 7 Trustee for Order Establishing Procedures for Sale of the Real Property Located at 619 Calle Cuesta, Watsonville, California 95076, Free and Clear of All Liens, Claims, Encumbrances and Other Interests Pursuant to Sections 105 and 363 of the Bankruptcy Code and Granting Related Relief; Memorandum of Points and Authorities; Declarations in Support Thereof

EH ____

Docket 80

Tentative Ruling:

7/17/2019

BACKGROUND

On July 12, 2017, Beatrice Diaz ("Debtor") filed a Chapter 7 voluntary petition. Among the scheduled assets was certain real property located at 619 Calle Cuesta, Watsonville, CA 95076 (the "Property").

On December 20, 2017, Trustee filed a complaint against Debtor's non-filing spouse, Jose Diaz ("Defendant"), seeking: (1) a declaration that the Property constituted community property; (2) turnover of the Property; and (3) authority to sell Defendant's interest in the Property. After Defendant failed to respond to the adversary complaint, Trustee moved for default. On May 22, 2018, the Court entered judgment adjudicating the Property to be community property and directing Defendant to turn over the property.

In January 2019, the Court entered two orders related to Trustee's efforts to gain

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CONT... Beatrice A Diaz

Chapter 7

control over the Property. First, in the adversary proceeding, the Court granted Trustee's motion for a writ of possession as to Defendant. Second, in the main bankruptcy case, the Court granted Trustee's motion for turnover as to Debtor.

On July 10, 2019, Trustee filed a motion seeking to establish procedures for the sale of the Property. Part of the reason for the filing of the instant motion is that the Property is subject to the Measure J Affordable Housing Program, which imposes a ceiling of \$363,798 on the Property's purchase price. Because the sale price of the Property is essentially fixed by a county voter initiative, the Trustee proposes a unique sale process which involves working with the county to post the listing, screen applicants, and then, ostensibly, randomly rank qualified bidders.

The Bankruptcy Code and Federal Rules of Bankruptcy Procedure do not delineate a legal standard to assess sale procedures. This Court employs a reasonableness test. Here, because the purchase price of the Property is essentially fixed, the bankruptcy estate would appear to not have any interest in which qualified applicant is selected as the purchaser. Therefore, assuming that the Property is sold at an amount not materially different than the maximum purchase price, the Court concludes that the sale procedures outlined in the motion are not unreasonable, and the Court is inclined to GRANT the motion in its entirety.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Beatrice A Diaz

Pro Se

Trustee(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

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6:17-13853 Malik Muhammad Asif

Chapter 7

Adv#: 6:17-01197 Itria Ventures, LLC v. Asif et al

#11.00 Plaintiff's Motion To Enforce Admission of Defendants In Joint Pretrial Stipulation

Also #12

EH ____

Docket 63

Tentative Ruling:

7/17/2019

BACKGROUND

On May 8, 2017, Malik & Zobia Asif ("Defendants") filed a Chapter 11 voluntary petition. On June 23, 2017, Defendants' case was converted to Chapter 7.

On September 15, 2017, Itria Ventures, LLC ("Plaintiff") filed a non-dischargeability complaint against Defendants pursuant to 11 U.S.C. § 523(a)(2)(A). On October 19, 2017, Defendants filed their answer.

On April 10, 2018, the parties submitted a pre-trial stipulation. The pre-trial stipulation indicates that the operative legal provision is § 523(a)(2)(B). At the pre-trial conference, the Court indicated that the pre-trial stipulation conflicted with the complaint, and inquired of Plaintiff whether any steps would be taken to remedy this inconsistency.

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CONT... **Malik Muhammad Asif**

Chapter 7

On June 24, 2019, Plaintiff filed a motion to enforce admission of Defendants. The motion construes Defendants participation in the pre-trial stipulation as an admission, and requests that the Court determine that the pre-trial stipulation supersede the complaint.

DISCUSSION

The argument presented in the motion is a single paragraph long, and the legal citations presented are completely irrelevant to the issue before the Court. Therefore, the Court will review the relevant caselaw *sua sponte*.

The relevant caselaw is clear and extensive: a pre-trial order effectively supersedes the complaint and answer. *See, e.g., Patterson v. Hughes Aircraft Co.*, 11 F.3d 948, 950 (9th Cir. 1993) ("A pretrial order generally supersedes the pleadings, and the parties are bound by its contents."); *see also Delta Home Group Inc. v. Royal Surplus Lines Ins. Co.*, 2009 WL 1619954 at *5 (11th Cir. 2009) ("The pretrial order supersedes the pleadings. Therefore, the pretrial order added the issue of indemnification to the issues to be tried, and Royal was on notice that indemnification would be tried.") (citation omitted); *Hullman v. Board of Trustees in Pratt Cmty. Coll.*, 950 F.2d 665, 668 (10th Cir. 1991) ("These cases and many others hold that the pretrial order 'measures the dimensions of the lawsuit, both in the trial court an on appeal."); *Moore v. Fenex, Inc.*, 809 F.2d 297, 300 (6th Cir. 1987) ("Issues incorporated in a pre-trial order may supersede the pleadings."); *Erff v. MarkHon Industries, Inc.*, 781 F.2d 613, 617 (7th Cir. 1986) ("Because the parties rely on the pre-trial conference to inform them precisely what is in controversy, the pre-trial order is treated as superseding the pleadings and establishes the issues to be considered at trial."); *Lane v. Geiger-Berger Assocs., P.C.*, 608 F.2d 1148, 1152 (8th Cir. 1979) ("It is well settled that the pre-trial order supersedes the pleadings and establishes the issues to be considered at trial."); *Basista v. Weir*, 340 F.2d 74, 85 (3rd Cir. 1965) ("It is, of course, established law that a pretrial order when entered limits the issues for trial and in substance takes the place of pleadings covered by the pretrial order.").

APPEARANCES REQUIRED.

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2:00 PM

CONT... Malik Muhammad Asif

Chapter 7

Party Information

Debtor(s):

Malik Muhammad Asif

Represented By
Todd L Turoci

Defendant(s):

Malik Muhammad Asif

Represented By
David T Egli

Zobia Asif

Represented By
David T Egli

Joint Debtor(s):

Zobia Asif

Represented By
Todd L Turoci

Movant(s):

Itria Ventures, LLC

Represented By
Michael F Chekian

Plaintiff(s):

Itria Ventures, LLC

Represented By
Michael F Chekian

Trustee(s):

Arturo Cisneros (TR)

Represented By
Thomas H Casey

**United States Bankruptcy Court
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6:17-13853 Malik Muhammad Asif

Chapter 7

Adv#: 6:17-01197 Itria Ventures, LLC v. Asif et al

#12.00 Pre-Trial Conference RE: [1] Adversary case 6:17-ap-01197. Complaint by Itria Ventures, LLC against Malik Muhammad Asif, Zobia Asif. false pretenses, false representation, actual fraud)) (Chekian, Michael)

From: 11/15/17, 12/6/17, 1/10/18, 6/6/18, 10/3/18, 11/7/18, 2/27/19, 4/24/19;
5/22/19

Also #11

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malik Muhammad Asif

Represented By
Todd L Turoci

Defendant(s):

Malik Muhammad Asif

Represented By
David T Egli

Zobia Asif

Represented By
David T Egli

Joint Debtor(s):

Zobia Asif

Represented By
Todd L Turoci

Plaintiff(s):

Itria Ventures, LLC

Represented By

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CONT... Malik Muhammad Asif

Michael F Chekian

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Represented By
Thomas H Casey

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Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, July 17, 2019

Hearing Room 303

2:00 PM

6:17-16417 Robert H Mills, III

Chapter 7

Adv#: 6:17-01225 Liquid Capital Exchange, Inc. v. Mills, III

#13.00 CONT Pre-Trial Conference RE: [1] Adversary case 6:17-ap-01225. Complaint by Liquid Capital Exchange, Inc. against Robert Harry Mills Jr.. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Langley, Christopher)

From: 10/31/18, 1/30/19, 4/24/19

EH__

Docket 1

***** VACATED *** REASON: STIPULATED JUDGMENT ENTERED
7/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert H Mills III

Represented By
Catherine Christiansen

Defendant(s):

Robert H. Mills III

Pro Se

Plaintiff(s):

Liquid Capital Exchange, Inc.

Represented By
Christopher J Langley

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, July 17, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01061 Farah v. Bastorous et al

#14.00 Order To Show Cause Why Case Should Not Be Dismissed For Lack Of
Prosecution

EH__

Docket 65

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

Mina Farah

Pro Se

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
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Wednesday, July 17, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01062 Khalil v. Bastorous et al

#15.00 Order To Show Cause Why Case Should Not Be Dismissed For Lack Of
Prosecution

EH__

Docket 63

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

Anis Khalil

Pro Se

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
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Wednesday, July 17, 2019

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2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:19-01080 United States Trustee for the Central District of v. Bastorous et al

#16.00 Status Conference RE: [1] Adversary case 6:19-ap-01080. Complaint by United States Trustee for the Central District of California, Region 16 against Mark Bastorous, Bernadette Shenouda. (Fee Not Required). with adversary cover sheet Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Green, Everett)

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 8/28/19 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

United States Trustee for the Central

Represented By
Everett L Green

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CONT... Mark Bastorous

Chapter 7

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
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Wednesday, July 17, 2019

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2:00 PM

6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01100 Zamucen & Curren LLP v. Johnson

#17.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01100. Complaint by Zamucen & Curren LLP against Vance Zachary Johnson . (d),(e))

From: 7/31/18, 10/3/18, 1/9/19, 1/30/19, 2/27/19, 7/3/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Zamucen & Curren LLP

Represented By
Patricia J Grace

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

**United States Bankruptcy Court
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Wednesday, July 17, 2019

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6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01106 Bankers Healthcare Group, LLC v. Johnson

#18.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01106. Complaint by Bankers Healthcare Group, LLC against Vance Zachary Johnson. 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))

From: 7/10/18, 2/20/19, 4/24/19, 7/3/19

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 8/21/2019 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Bankers Healthcare Group, LLC

Represented By
Todd L Turoci

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, July 17, 2019

Hearing Room 303

2:00 PM

6:18-12282 Frank Javier Valderrama

Chapter 7

Adv#: 6:18-01141 Carrillo v. Valderrama

#19.00 CONT Status Conference RE: [36] Amended Complaint THIRD by John F Bazan on behalf of Jose Carrillo against Jose Carrillo

From: 4/10/19

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Defendant(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Plaintiff(s):

Jose Carrillo

Represented By
John F Bazan

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, July 17, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01214 Pringle v. Histen, APC et al

#20.00 Plaintiff's Motion for Default Judgment under LBR 7055-1

EH ____

Docket 17

Tentative Ruling:

7/17/19

I. BACKGROUND

On April 28, 2015, Home Security Stores, Inc. ("Debtor") filed a Chapter 7 voluntary petition. Ralph Winn and Stacey Winn (collectively, the "Winns;" individually, "R. Winn" and "S. Winn") were shareholders, directors, and officers of Debtor. The Winns are trustees of the Winn Family Trust ("Winn Trust").

On October 29, 2018, Chapter 7 Trustee John Pringle ("Trustee") filed a complaint against Harry J. Histen, APC ("Defendant"), a California law firm of which Harry J. Histen ("Histen") is the primary attorney. Trustee's complaint includes four causes of action: avoidance of transfers pursuant to 11 U.S.C. § 544(b) and CAL. CIV. CODE §§ 3439.04(a)(2) and 3439.05; avoidance of transfers pursuant to U.S.C. § 548(a)(1)(B); recovery of avoided transfers pursuant to 11 U.S.C. § 550; and disallowance of claims pursuant to 11 U.S.C. § 502. Defendant did not respond to UST's complaint. On

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CONT... Home Security Stores, Inc.

Chapter 7

December 19, 2018, the clerk entered default against Defendant. On June 21, 2019, Trustee filed a motion for default judgment.

Trustee's complaint arises out of Defendant's previous relationship as an attorney to the Winns, the Winn Trust, and Debtor. Trustee asserts that the Debtor's principals' and insiders' actions exacerbated and potentially caused Debtor's bankruptcy. In 2014, Defendant performed legal services for the Winns related to the sale of commercial real property titled in the name of the Winn Trust. According to the Trustee, Defendant advised the Winns to create a UCC-1 lien against Debtor. Trustee also asserts that before filing for bankruptcy, Debtor paid Defendant for the legal services performed for the Winns and the Winn Trust. Debtor paid Defendant \$15,013.00 via three checks, which were deposited into Defendant's bank account, without receiving consideration. Trustee also claims that despite a court order and subpoena for recorded information, Defendant has failed to provide documentation proving he performed legal services for Debtor.

II. DISCUSSION

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A. Entry of Default

FED. R. CIV. P. 55 states that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed. R. Civ. P. 55(a). Local Rule 7055-1 provides additional requirements relating to a motion for entry of default judgment, and those requirements have been substantially satisfied here.

B. Motion for Default Judgment

1. Proper Service of Summons and Complaint

FED. R. BANKR. P. Rule 7004(b)(1) states, in part:

[S]ervice may be made within the United States by first class mail postage prepaid as follows:

- (1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint to the individual's dwelling house or usual place of abode or to the place where the individual

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Home Security Stores, Inc.

Chapter 7

regularly conducts a business or profession.

Here, it appears Trustee properly served Defendant and Histen. Defendant's address on the proof of service document matches Histen's office address on the State Bar of California website.

2. Merits of Plaintiff's claim

Upon default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true. *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987); *see also Almog v. Golden Summit Investors Group, Ltd.*, 2012 WL 12867972 at *4 (C.D. Cal. 2012) ("When reviewing a motion for default judgment, the Court must accept the well-pleaded allegations of the complaint relating to liability as true.").

Here, the complaint includes four causes of action: (1) avoidance and recovery of fraudulent transfers pursuant to 11 U.S.C. § 544(b), CAL. CIV. CODE §§ 3439.04(a) (2) and 3439.05; (2) avoidance and recovery of fraudulent transfers pursuant to 11 U.S.C. § 548(a)(1)(B); (3) recovery of voidable transfers pursuant to 11 U.S.C. § 550; and (4) disallowance of claims pursuant to 11 U.S.C. § 502. The memorandum of

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CONT... Home Security Stores, Inc. Chapter 7

points and authorities in support of Trustee’s motion for default judgment does not explicitly address any of these causes of action.

The Trustee’s first claim for relief is avoidance and recovery of fraudulent transfers pursuant to 11 U.S.C. §S 544(b) and CAL. CIV. CODE §§ 3439.04(a)(2) and 3439.05. Section 544(b) states that a trustee may avoid a transfer of an interest of the debtor that is voidable under applicable law. CAL CIV. CODE § 3439.04(a)(2) provides that a transfer is voidable if the debtor made the transfer without receiving a reasonably equivalent value in exchange for the transfer and the debtor either (a) was left with remaining assets that were unreasonably small in relation to a debtor’s business or transaction, or (b) should have reasonably believed debtor did not have the ability to pay debts when they became due. Trustee asserts that the legal services were performed for the Winns and the Winn Trust and consideration was not provided to the Debtor in exchange for the transfers. Trustee also claims that the transfers from Debtor to Defendant worsened Debtor’s financial situation and led to Debtor’s bankruptcy. Thus, Trustee sufficiently alleges that Debtor did not receive reasonably equivalent value in exchange for transfer and that Debtor was aware of mounting debt and its inability to pay debts.

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CAL. CIV. CODE § 3439.05 provides that a transfer is voidable as to a creditor whose claim arose before the transfer if the debtor did not receive reasonably equivalent value and the debtor was or became insolvent as a result of the transfer. Trustee alleges that Defendant's legal services were rendered to the Winns and Winn Trust, that transfers were made from Debtor to Defendant for said services, and that Debtor did not receive consideration for the transfers. Trustee also asserts that the transfers potentially lead to Debtor's bankruptcy. Trustee's complaint sufficiently alleges that Defendant did not receive reasonably equivalent value and that Debtor became insolvent as a result of the transfer.

The Trustee's second claim for relief is avoidance and recovery of fraudulent transfers pursuant to 11 U.S.C. § 548(a)(1)(B). Section 548(a)(1)(B) states that a trustee may avoid any transfer made by the debtor within two years before filing their bankruptcy petition if the debtor received less than a reasonably equivalent value in exchange for transfer and (i) was or became insolvent due to the transfer, (ii) was engaged in business and left with unreasonably small capital after the transfer, (iii) was left with debt that would be beyond the debtor's ability to pay, or (iv) made such transfer to or for the benefit of an insider under an employment contract and not

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Home Security Stores, Inc.

Chapter 7

through the ordinary course of business. Trustee claims that the transfers made from Debtor to Defendant were made within two years before Debtor filed for bankruptcy and that Debtor did not receive consideration for the transfers. Trustee also claims the transfers led to Debtor's financial demise and that the transfers were made for the benefit of the Winns and Winn Trust, not the Debtor. Trustee sufficiently asserts the transfers were made within two years of the petition, that Debtor did not receive equivalent value in exchange of transfer, that Debtor was insolvent due to the transfers, and the transfers were made for the benefit of insiders under an employment contract outside the ordinary course of business.

The Trustee's third claim for relief is recovery of voidable transfers pursuant to 11 U.S.C. § 550. Section 550 provides that transfers avoided under 11 U.S.C. §§ 544 and 548 are recoverable from the initial transferee. Trustee claims that the transfers are avoidable under 11 U.S.C. §§ 544 and 548 and that Defendant was the initial transferee. Therefore, Trustee's complaint sufficiently alleges that the transfers are recoverable from the Defendant.

The Trustee's fourth and final claim for relief is disallowance of claims pursuant to 11 U.S.C. § 502. Section 502(d) states that a court shall disallow any

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CONT... Home Security Stores, Inc. Chapter 7

claim of an entity, unless that entity has paid the amount or turned over property for which transferee is liable under § 550. As Defendant has not filed a claim for an avoidable transfer, and as it appears the bar date has passed, denial of the forth claim as moot is warranted.

Section 502(j) states that a reconsidered claim may be allowed or disallowed depending on the case's equities. Possible reconsideration of claims does not affect validity of payment or transfer from the estate to a holder of an allowed claim. Defendant has not made a reconsidered claim; therefore, there is no claim to disallow. Trustee has failed to allege that Defendant cannot bring previously allowed claims against the estate because Defendant has not made any claims.

3. Amount of Damages

Here, Trustee is requesting recovery of the transfers or a money judgment of equal value with interest at the federal rate. Local Rule 55-2 states that if the amount claimed in a default judgment is unliquidated, the applicant may submit evidence of the amount of damages by declarations. In the motion, Trustee attached copies of the transfer via three checks from Debtor to Defendant. Check 1 is valued at \$7,513.00, check 2 is valued at \$5,000, and check 3 is valued at \$2,500, all checks totaling to

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CONT... Home Security Stores, Inc.
\$15,013.00.

Chapter 7

III. TENATIVE RULING

The Court is inclined to GRANT the Trustee's default judgement motion as to the first, second, and third causes of action, and DENY, as moot, the motion with respect to the fourth cause of action.

APPREANCES REQUIRED.

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Harry J Histen, APC

Pro Se

Harry J Histen, III

Pro Se

Movant(s):

John Pringle

Represented By
Robert P Goe

Plaintiff(s):

John Pringle

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By

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CONT...

Home Security Stores, Inc.

Robert P Goe
Charity J Manee

Chapter 7

**United States Bankruptcy Court
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Wednesday, July 17, 2019

Hearing Room 303

2:00 PM

6:18-20247 Stephen Lynn Overmyer

Chapter 7

Adv#: 6:19-01039 McCune v. Overmyer

#21.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01039. Complaint by B. Lynn McCune against Stephen Overmyer . false pretenses, false representation, actual fraud))

From: 4/17/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Lynn Overmyer

Represented By
Gordon L Dayton

Defendant(s):

Stephen Overmyer

Represented By
Gordon L Dayton

Plaintiff(s):

B. Lynn McCune

Represented By
James A Rainboldt

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:15-19432 Kirk Eugene Frantz and Mary Elizabeth Frantz

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 152079 Rio Vista Road, Big River, CA 92242

MOVANT: BAYVIEW LOAN SERVICING LLC

From: 5/28/19, 6/4/19, 7/9/19

EH__

Docket 155

***** VACATED *** REASON: CONTINUED TO 9/10/19 AT 10:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Eugene Frantz

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Mary Elizabeth Frantz

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney
Edward G Schloss

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:16-15914 Maria Aurora Chaidez Grajeda

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Dodge Ram 1500 Quad Cab SLT 1C6RR6GG7HS651216

MOVANT: CONSUMER PORTFOLIO SERVICES, INC.

EH _____

Docket 43

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Maria Aurora Chaidez Grajeda

Represented By
Nicholas M Wajda

Movant(s):

Consumer Portfolio Services, Inc.

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Riverside
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:16-20459 Winnie Marie Quanstrom

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3769 Castle Oak Drive, Riverside, CA 92505

MOVANT: SPECIALIZED LOAN SERVICING, LLC

EH ____

Docket 55

Tentative Ruling:

7/30/2019

Service is Proper

Opposition: Yes

While the motion is opposed, the merits of the opposition are not clear, and the declaration in support is insufficient as it is from Debtor's counsel. Therefore, he Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from § 1301(a) co-debtor stay. GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3 and 12.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Winnie Marie Quanstrom

Represented By
Dana Travis

Movant(s):

Specialized Loan Servicing LLC

Represented By
Mukta Suri
Nancy L Lee

**United States Bankruptcy Court
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10:00 AM

CONT... Winnie Marie Quanstrom

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:17-11132 Jose V Arredondo

Chapter 13

#4.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5754 Felspar Street, Riverside, CA 92509-4903

MOVANT: WILMINGTON SAVINGS FUND SOCIETY, FSB

From: 5/28/19, 6/25/19

EH__

Docket 47

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose V Arredondo

Represented By
Benjamin A Yrungaray

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kelsey X Luu
Sean C Ferry
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:17-20487 Ann Marie Smith

Chapter 13

#5.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6140 Sard St, Alta Loma, CA 91701

MOVANT: WELLS FARGO BANK N.A.

From: 6/11/19, 7/9/19

EH__

Docket 85

***** VACATED *** REASON: ORDER ENTERED 7/29/19**

Tentative Ruling:

6/11/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT relief from § 1301(a) stay. GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2, 3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ann Marie Smith

Represented By
Brian J Soo-Hoo

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Nancy L Lee
Jonetta A Graves

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

CONT... Ann Marie Smith

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:18-10978 Veronica Hernandez

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1404 North Tustin Avenue L2, Santa Ana, CA, 92705

MOVANT: NATIONSTAR MORTGAGE LLC

EH ____

Docket 36

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Veronica Hernandez

Represented By
Christopher Hewitt

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Paul W Cervenka
Darlene C Vigil
Dane W Exnowski

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

CONT... Veronica Hernandez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:18-11363 John Louis Baumann and Tracey Leigh Baumann

Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 8550 Cabin Place, Riverside, CA 92508

MOVANT: NATIONSTAR MORTGAGE LLC

EH ____

Docket 45

***** VACATED *** REASON: ORDER ENTERED 7/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Louis Baumann

Represented By
M. Wayne Tucker

Joint Debtor(s):

Tracey Leigh Baumann

Represented By
M. Wayne Tucker

Movant(s):

Nationstar Mortgage LLC dba Mr

Represented By
Gilbert R Yabes
Dane W Exnowski
Kelsey X Luu

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:18-13566 Marco Tulio Magana and Gloria Louisa Magana

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 TOYOTA CAMRY

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH ____

Docket 47

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Marco Tulio Magana

Represented By
Daniel King

Joint Debtor(s):

Gloria Louisa Magana

Represented By
Daniel King

Movant(s):

TOYOTA MOTOR CREDIT

Represented By
Erica T Loftis Pacheco

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

**CONT... Marco Tulio Magana and Gloria Louisa Magana
Trustee(s):**

Chapter 13

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:18-17556 Daniel Javier Garcia

Chapter 13

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 NISSAN VERSA

MOVANT: NISSAN MOTOR ACCEPTANCE CORPORATION

EH ____

Docket 51

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Daniel Javier Garcia

Represented By
Steven A Alpert

Movant(s):

NISSAN MOTOR ACCEPTANCE

Represented By
Michael D Vanlochem

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:18-18478 Jose Granados and Norma Granados-Maycott

Chapter 13

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23919 Ridge Point Cr, Moreno Valley, CA 92557

MOVANT: WELLS FARGO BANK, N.A.

EH ____

Docket 42

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3 and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose Granados

Represented By
Todd L Turoci

Joint Debtor(s):

Norma Granados-Maycott

Represented By
Todd L Turoci

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

CONT... Jose Granados and Norma Granados-Maycott

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:18-18739 Heather Gibson

Chapter 13

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6375 Lime Road, Phelan, CA 92371

MOVANT: LAKEVIEW LOAN SERVICING, LLC

EH ____

Docket 42

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: Yes

Debtor to apprise the Court of the status of sale efforts, and parties to apprise the Court of the status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Heather Gibson

Represented By
Natalie A Alvarado

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:18-19368 Salvador Marquez

Chapter 13

#12.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11468 Caraway Court, Fontana, CA 92337

MOVANT: JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

From: 6/9/19

EH__

Docket 29

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2,3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Salvador Marquez

Represented By
Todd L Turoci

Movant(s):

JPMorgan Chase Bank, National

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

CONT... Salvador Marquez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:18-19400 Maria D Valdez Quintero

Chapter 13

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 29104 Escalante Road, Quail Valley, CA 92587

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

EH ____

Docket 44

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Maria D Valdez Quintero

Represented By
Jaime A Cuevas Jr.

Movant(s):

Deutsche Bank National Trust

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

CONT... Maria D Valdez Quintero

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:18-20759 Elida Soto

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13692 Bedford Place, Victorville, CA 92392

MOVANT: NATIONS DIRECT MORTGAGE, LLC

EH ____

Docket 40

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Elida Soto

Represented By
William G Cort

Movant(s):

NATIONS DIRECT MORTGAGE,

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:19-10556 Timothy Mark Aitken and Esmeralda Aitken

Chapter 7

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1414 West 71St Street, Los Angeles, CA 90047

MOVANT: DEUTCHE BANK NATIONAL TRUST COMPANY

EH ____

Docket 20

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from stay pursuant to § 362(d)(4) based on the unauthorized transfer of property twelve days before the filing of the petition. GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Timothy Mark Aitken	Pro Se
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Joint Debtor(s):

Esmeralda Aitken	Pro Se
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Movant(s):

Deutsche Bank National Trust	Represented By Gilbert R Yabes
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**United States Bankruptcy Court
Central District of California
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

CONT... Timothy Mark Aitken and Esmeralda Aitken

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Represented By
Larry D Simons

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:19-12633 David Jorge Gonzalez, Jr.

Chapter 7

#16.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 HONDA ACCORD, VIN: 1HGC R2F3 2GA0 08221

MOVANT: AMERICAN HONDA FINANCE CORPORATION

From: 6/25/19

EH ____

Docket 10

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: None

The Court is inclined to CONTINUE the matter to July 30, 2019, for a hearing on the reaffirmation agreement between the parties to the loan.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David Jorge Gonzalez Jr.

Represented By
Carey C Pickford

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian
Alex Pettigrew

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

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10:00 AM

CONT... David Jorge Gonzalez, Jr.

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:19-13328 Luis Antonio Gaeta

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 KIA FORTE

MOVANT: AUTOMOTIVE CREDIT CORPORATION

EH _____

Docket 24

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: No

Debtor had a previous case dismissed on March 28, 2019. Pursuant to the operation of 11 U.S.C. § 362(c)(3)(A), the automatic stay in this case terminated on May 19, 2019. Therefore, the Court is inclined to GRANT relief from the § 1301 co-debtor stay, and otherwise DENY the motion as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Luis Antonio Gaeta

Represented By
Daniel King

Movant(s):

Automotive Credit Corporation

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Hearing Room 303

10:00 AM

6:19-14380 Matthew Lucas Lozolla and Jennifer Leann Lozolla

Chapter 7

#18.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Nissan Frontier

MOVANT: FIRST TECH FEDERAL CREDIT UNION

EH ____

Docket 13

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Matthew Lucas Lozolla

Represented By
Aaron Lloyd

Joint Debtor(s):

Jennifer Leann Lozolla

Represented By
Aaron Lloyd

Movant(s):

First Tech Federal Credit Union

Represented By
Mirco J Haag

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

CONT... Matthew Lucas Lozolla and Jennifer Leann Lozolla

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

10:00 AM

6:19-14643 Brigitte Ann Oligher

Chapter 7

#19.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 FORD MUSTANG VIN 1FATP8UH9G5243073

MOVANT: FORD MOTOR CREDIT COMPANY LLC

EH __

Docket 11

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Brigitte Ann Oligher

Represented By
Donald W Sieveke

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Hearing Room 303

10:00 AM

6:19-15486 Paul Robert Schultz

Chapter 7

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 27632 Longmeadow Ct, Moreno Valley, CA 92555

MOVANT: HSBC BANK USA, NATIONAL ASSOCIATION

EH ____

Docket 12

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Paul Robert Schultz

Pro Se

Movant(s):

HSBC Bank USA, National

Represented By
Gilbert R Yabes

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Hearing Room 303

10:00 AM

6:19-15979 James Meyer

Chapter 13

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 5203 El Cerrito Drive #218 Riverside, CA 92507

MOVANT: KMF CANYON CREST, LLC

EH__

Docket 7

***** VACATED *** REASON: CASE DISMISSED 7/29/19**

Tentative Ruling:

Party Information

Debtor(s):

James Meyer

Pro Se

Movant(s):

Todd Brisco

Represented By
Todd A Brisco

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

10:00 AM

6:19-16207 Christian Flores

Chapter 13

#21.10 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 14476 Wapiti Way Victorville, CA 92394; three 2012 Freightliner Cascadia; 2018 Chevrolet Tahoe and a 2018 Toyota Camry

MOVANT: CHRISTIAN FLORES

EH__

Docket 5

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: None

Having reviewed the motion, notice appearing proper, good cause appearing, and noting the lack of any opposition, the Court is inclined to GRANT the motion, CONTINUING the automatic stay as to all creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Christian Flores

Represented By
Jaime A Cuevas Jr.

Movant(s):

Christian Flores

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

**United States Bankruptcy Court
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10:00 AM

CONT... Christian Flores

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#22.00 Plaintiff's Notice of Additional Funds to Interplead; Declaration of Melissa Davis Lowe in Support Thereof

EH ____

Docket 87

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

United states of america

Represented By
Charles Parker
Najah J Shariff

Carlin Law Group APC

Represented By
Kevin R Carlin

**United States Bankruptcy Court
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2:00 PM

CONT... ASR Constructors Inc a California Corporation
DOES 1 through 10, inclusive Pro Se

Chapter 11

Movant(s):

ASR Constructors Inc a California	Represented By James C Bastian Jr Melissa Davis Lowe
Another Meridian Company, LLC	Represented By James C Bastian Jr Melissa Davis Lowe
Inland Machinery, Inc.	Represented By James C Bastian Jr Melissa Davis Lowe

Plaintiff(s):

ASR Constructors Inc a California	Represented By James C Bastian Jr Melissa Davis Lowe
Another Meridian Company, LLC	Represented By James C Bastian Jr Melissa Davis Lowe
Inland Machinery, Inc.	Represented By James C Bastian Jr Melissa Davis Lowe

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Hearing Room 303

2:00 PM

6:18-20003 LC Stahl LLC

Chapter 11

#23.00 Trustee's Motion by United States Trustee to Dismiss Bankruptcy Case pursuant to 11 U.S.C. Section 1112(b)

EH ____

Docket 133

Tentative Ruling:

7/30/19

BACKGROUND

On November 27, 2019, LC Stahl LLC ("Debtor") filed a Chapter 11 voluntary petition. The case was dismissed on December 6, 2018, for failure to file case commencement documents, but dismissal was vacated five days later. Debtor's only asset was certain real property located at 19275 Vista De Montanas, Murrieta, CA 92562 (the "Property"). Schedule A identified the Property as having a value of \$2,633,000, and Schedule D identified Loan Funder LLC Series 1829 ("Creditor") as holding a secured claim in the amount of \$1,070,000. Ultimately, Creditor filed a proof of claim for a secured claim in the amount of \$1,320,665.61.

On February 5, 2019, Creditor filed a motion for relief from the automatic stay. After holding three hearings on the motion for relief from the automatic stay, the Court scheduled an evidentiary hearing, which was ultimately held on June 10, 2019. After taking testimony regarding the fair market value of the Property, the Court granted relief from stay to Creditor.

On June 28, 2019, after the motion for relief from the automatic stay was granted, UST filed a motion to dismiss the case. UST asserts that there is cause to dismiss the

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2:00 PM

CONT...

LC Stahl LLC

Chapter 11

case under 11 U.S.C. § 1112(b) because: (1) Debtor lacks the ability to reorganize; (2) Debtor has failed to file monthly operating reports; and (3) Debtor has failed to comply with the UST's guidelines. On July 18, 2019, Debtor filed a response indicating that it conceded the first of UST's arguments – that Debtor no longer has the ability to reorganize.

DISCUSSION

11 U.S.C. § 1112(b)(1) states:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

Section 1112(b)(4) provides a non-exhaustive list of examples of cause. Included in the list is § 1112(b)(4)(A) which provides that "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation" constitutes cause for dismissal. Because Debtor has conceded that it no longer has a reasonable likelihood of rehabilitation, the Court concludes that dismissal (or conversion) is appropriate under § 1112(b)(4)(A).

Furthermore, 11 U.S.C. § 1112(b) provides that the Court must consider whether dismissal or conversion is in the best interests of creditors and the estate. As noted by UST, it appears that "[t]he Debtor does not possess any assets for a Chapter 7 trustee to recover and liquidate." In this circumstance, therefore, the best interests of creditors appears to be for the case to be dismissed.

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2:00 PM

CONT... LC Stahl LLC

Chapter 11

TENTATIVE RULING

The Court is inclined to GRANT the motion, DISMISSING the case pursuant to 11 U.S.C. § 1112(b)(4)(A), conditioned on the payment of the United States Trustee's fees.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

Movant(s):

United States Trustee (RS)

Represented By
Everett L Green
Abram Feuerstein esq

**United States Bankruptcy Court
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2:00 PM

6:17-15809 Beatrice A Diaz

Chapter 7

#23.10 CONT Notice of Motion and Motion of Chapter 7 Trustee for Order Establishing Procedures for Sale of the Real Property Located at 619 Calle Cuesta, Watsonville, California 95076, Free and Clear of All Liens, Claims, Encumbrances and Other Interests Pursuant to Sections 105 and 363 of the Bankruptcy Code and Granting Related Relief; Memorandum of Points and Authorities; Declarations in Support Thereof

From: 7/17/19

EH ____

Docket 80

Tentative Ruling:

7/17/2019

BACKGROUND

On July 12, 2017, Beatrice Diaz ("Debtor") filed a Chapter 7 voluntary petition. Among the scheduled assets was certain real property located at 619 Calle Cuesta, Watsonville, CA 95076 (the "Property").

On December 20, 2017, Trustee filed a complaint against Debtor's non-filing spouse, Jose Diaz ("Defendant"), seeking: (1) a declaration that the Property constituted community property; (2) turnover of the Property; and (3) authority to sell Defendant's interest in the Property. After Defendant failed to respond to the adversary complaint, Trustee moved for default. On May 22, 2018, the Court entered judgment adjudicating the Property to be community property and directing Defendant to turn over the property.

**United States Bankruptcy Court
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2:00 PM

CONT... Beatrice A Diaz

Chapter 7

In January 2019, the Court entered two orders related to Trustee's efforts to gain control over the Property. First, in the adversary proceeding, the Court granted Trustee's motion for a writ of possession as to Defendant. Second, in the main bankruptcy case, the Court granted Trustee's motion for turnover as to Debtor.

On July 10, 2019, Trustee filed a motion seeking to establish procedures for the sale of the Property. Part of the reason for the filing of the instant motion is that the Property is subject to the Measure J Affordable Housing Program, which imposes a ceiling of \$363,798 on the Property's purchase price. Because the sale price of the Property is essentially fixed by a county voter initiative, the Trustee proposes a unique sale process which involves working with the county to post the listing, screen applicants, and then, ostensibly, randomly rank qualified bidders.

The Bankruptcy Code and Federal Rules of Bankruptcy Procedure do not delineate a legal standard to assess sale procedures. This Court employs a reasonableness test. Here, because the purchase price of the Property is essentially fixed, the bankruptcy estate would appear to not have any interest in which qualified applicant is selected as the purchaser. Therefore, assuming that the Property is sold at an amount not materially different than the maximum purchase price, the Court concludes that the sale procedures outlined in the motion are not unreasonable, and the Court is inclined to GRANT the motion in its entirety.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Beatrice A Diaz

Pro Se

Movant(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

**United States Bankruptcy Court
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CONT... Beatrice A Diaz

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, July 30, 2019

Hearing Room 303

2:00 PM

6:18-13057 Desert Ice Castle, LLC

Chapter 7

#23.20 CONT Motion for Order Approving Compromise of Controversy Between Chapter 7 Trustee, Debtor, Anthony Yue Ming Liu, Ice Castle, Inc. and Magic Ice, LLC Pursuant to Federal Rule of Bankruptcy Procedure 9019

Advanced From: 7/31/19

EH ____

Docket 91

Tentative Ruling:

BACKGROUND

Debtor Desert Ice Castle ("Debtor") filed a voluntary Ch. 7 petition on April 13, 2018. Creditor Andrzej Luczynski ("Creditor") filed two claims against Debtor, one for \$3,200,000 related to the breach of joint venture between the two, and one for anticipated judgment from state court litigation for \$1,218,135.54. Creditor's associated company, Z&M Trading, Inc., also filed a claim against Debtor for attorney fees to be derived from the anticipated state court judgment.

On January 31, 2019, the Ch. 7 Trustee filed an adversary proceeding against Anthony Ming Liu ("Liu"), the principal of Debtor, for alleged pre-petition transfers from Debtor to Liu. Liu filed his own bankruptcy petition. On June 25, 2019, Trustee reached an allegedly global agreement with Liu, Z&M, Creditor, and Desert Ice Castle, which will apply in both this, and Liu's case. The claimed primary terms of the agreement is the payment of \$60,000 from Liu to Trustee, combined with a dismissal of the adversarial proceeding with prejudice, and the withdrawal of Creditor's proofs of claim and Trustee's proof of claim in Liu's bankruptcy case.

However, the actual settlement agreement provided has no signature from Creditor, and the agreement terms do not state that Creditor will engage in a mutual release of claims between him and Debtor, as alleged by Trustee, or that Creditor will withdraw his proofs of claims.

On July 3, 2019, Trustee filed a motion to approve the compromise under Rule 9019.

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CONT... Desert Ice Castle, LLC

Chapter 7

On July 25, 2019, the matter was advanced to July 30, 2019, at 2:00 p.m.

DISCUSSION

FED. R. BANKR. P. Rule 9019 provides that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

The Ninth Circuit Court of Appeals have previously outlined the factors to be considered in approving a compromise pursuant to Rule 9019: (1) the probability of success in the litigation; (2) the difficulties to be encountered in the matter of collection; (3) the complexity, expense, inconvenience and delay of litigation; and (4) the interest of creditors with deference to their reasonable views. *See In re A&C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). The listed factors assist the Court in determining "the fairness, reasonableness and adequacy of a proposed settlement agreement." *Id.*

Creditor's claims are the vast bulk of pre-petition claims against Debtor, and are also the root of the adversarial proceeding between Trustee and Debtor. In addition, Trustee also claims that the agreement settles the controversy between Creditor and Debtor. While Creditor is not a party to the settlement agreement, the Court notes that the agreement is expressly conditioned on the withdrawal of Creditor's proofs of claim. Otherwise, the Court finds that Trustee has sufficiently addressed the *A&C Properties* standard.

TENTATIVE RULING

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CONT... Desert Ice Castle, LLC

Chapter 7

Service: Proper

Opposition: None

The Court is inclined to GRANT Trustee's motion to approve compromise.

APPEARANCES WAIVED. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Desert Ice Castle, LLC

Represented By
Paul M Stoddard

Movant(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

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6:18-18339 Technology Solutions & Services, Inc., a Californi

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#24.00 CONT Motion RE: Objection to Claim Number 37 by Claimant Franchise Tax Board

From: 5/7/19, 6/25/19

EH__

Docket 248

***** VACATED *** REASON: CONTINUED TO 8/20/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

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6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#25.00 CONT Motion To Compel Payment Of Administrative Rent Or Immediate Rejection Of Lease And Related Relief
(HOLDING DATE)

From: 11/27/18, 12/18/18, 2/26/19, 3/27/19, 5/1/19

Also #26

EH__

Docket 194

Tentative Ruling:

2/26/19

BACKGROUND

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor") filed a Chapter 11 voluntary petition. On November 2, 2018, The H.N. and Frances C. Berger Foundation ("Berger Foundation") filed its motion to compel payment of administrative rent or immediate rejection of lease and related relief. On November 13, 2018, Debtor filed its opposition.

The subject of the motion is a lease dated August 15, 2008, for certain nonresidential real property located in Palm Desert, California. According to Berger Foundation, "[p]ursuant to the terms of lease, should the Debtor continue to occupy the premises after August 14, 2018, the lease obligation increases to approximately \$91,216.50 per month," [Dkt. No. 194, pg. 2] a doubling of the contractual monthly rental obligation. Berger Foundation requests: (1) that Debtor be compelled to cure the default on the lease or surrender the premises; and (2) allowance of an administrative expense claim

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CONT... Visiting Nurse Association of the Inland Counties
in the amount of \$3,040.55 per day.

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Debtor's opposition argued that: (1) the lease cannot be assumed or rejected because the lease expired the day before the petition date; and (2) because the lease expired prepetition, the legal basis for the requested administrative expense claim is invalid.

On November 27, 2018, the Court held a hearing on the matter, and continue the hearing for three weeks for supplemental briefing. On December 18, 2018, the Court posted a tentative ruling prior to the continued hearing, indicating that it was inclined to hold that the lease terminated pre-petition, and, therefore, the lease was not an executory contract. The Court continued the matter again, allowing the parties the opportunity to further brief the matter, and to enable the parties to supplement the record to afford the Court the opportunity to assess Berger Foundation's request for administrative rent.

On January 18, 2019, Berger Foundation filed a supplement. On February 1, 2019, Debtor filed a response. Because Berger Foundation has not presented any new argument relating to 11 U.S.C. § 365, the Court is not inclined to modify its tentative, which is outlined in the first portion of the discussion section. Instead, the Court will address the parties' arguments relating to 11 U.S.C. § 503.

DISCUSSION

I. 11 U.S.C. § 365

The critical legal question at issue is whether the operative lease expired prepetition. Berger Foundation relies on 11 U.S.C. § 365(d)(3) as the basis for both its requests, and that provision states:

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The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any *unexpired* lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. The court may extend, for cause, the time for performance of any such obligation that arises within 60 days after the date of the order for relief, but the time for performance shall not be extended beyond such 60-day period. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f) of the section. Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(emphasis added).

As a general rule, an expired lease is no longer executory, and, therefore, is no longer assumable, if the lease expired prepetition. *See, e.g., In re Acorn Invs.*, 8 B.R. 506, 509-10 (Bankr. S.D. Cal. 1981). Therefore, the Court must determine whether the lease at issue expired prepetition. *See Robinson v. Chicago Hous. Auth.*, 54 F.3d 316, 320 (7th Cir. 1995) ("the federal law allowing 'unexpired' leases to be assumed calls for a determination whether a lease has ended under state law."). Here, Debtor argues that the lease expired pre-petition, resulting in a holdover tenancy, in which no privity of contract exists, while Berger Foundation argues that the lease became a month to month tenancy and, therefore, was not expired. While the parties appear to be agree on the operative legal standard, the parties disagree regarding how that standard applies to the facts here

Both parties refer to CAL. CIV. CODE § 1945, which states:

If a lessee of real property remains in possession thereof after the expiration of the hiring, and the lessor accepts rent from him, the parties are presumed to have renewed the hiring on the same terms and for the same time, not

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exceeding one month when the rent is payable monthly, nor in any case one year.

As a preliminary matter, the Court notes that it appears the above legal provision should not actually be applicable to the instant situation. Specifically, CAL. CIV. CODE § 1940(a), (c) states the following:

- (a) Except as provided in subdivision (b), this chapter shall apply to all persons who hire dwelling units located within this state included tenants, boarders, lodgers, and others, however denominated.
- (c) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

Here, the lease at issue was a commercial lease which would remove the lease from the purview of § 1945 based upon the plain language of § 1940. Nevertheless, the Court notes that there is ample caselaw, some of which is cited by the parties, in which California courts have applied § 1945 to commercial property. Although it is not clear to this Court why that section is inapplicable to the instant situation, the Court will defer to the state law courts on this issue of state law.

Ultimately, the argument of Berger Foundation boils down to the following:

In this case, after the expiration of the Lease terms (August 14, 2018), Debtor continued to occupy the Premises. Berger continued to accept the Debtor as a tenant and took no action to terminate the Debtor's leasehold interest in the Premises. To the contrary, as this Court's record reflects, from the outset, Berger has been focusing on receiving rent payments and, in fact, received post-petition payments of not less than \$15,000 as of the date of this Reply. Clearly, pursuant to Civil Code § 1945 and applicable California authority, the

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Lease converted to a month-to-month tenancy after August 14, 2018.

[Dkt. No. 278, pg. 3]. Debtor's argument, on the other hand, appears to be that Berger Foundation's actions in this case simply do not reflect clear consent to Debtor's continued possession of the premises.

First, there appears to be a timing issue which has not been identified by the parties. The operative lease expired, by its own terms, on August 14, 2018. The instant bankruptcy was filed on August 15, 2018. Therefore, assuming, *arguendo*, that rent was paid and accepted in a matter which would trigger the statutory presumption in CAL. CIV. CODE § 1945, such event would have occurred *after* the petition date. *City v. Hart*, 175 Cal. App. 3d 92, 94 (Cal. Ct. App. 1985) ("The statute provides the landlord's consent to the holding over is implied if he accepts rent from the tenant after the expiration of the lease. This consent to the holding over must be established **before** the statutory presumption of the same terms becomes effective.") (emphasis added). Therefore, the lease at issue would have been, as of the petition date, expired and not assumable. Quite simply, on the record before the Court, it is implausible that Berger Foundation could have undertaken any action in the fraction of the day before the instant bankruptcy filing which would have indicated consent to the creation of a month-to-month tenancy.

Furthermore, outside of the bankruptcy law issues raised above, Berger Foundation's position does not seem to be compatible with state law. Quite simply, the presumptions outlined in CAL. CIV. CODE § 1945 are analogous to contractual principles in common law. By remaining in possession of the property, and tendering a rental payment, a holdover tenant is making an offer; by accepting such tender, the landlord manifests his assent to such offer. Berger Foundation seems to be positing that the payment of any rent whatsoever, even a single dollar, subsequently accepted by the landlord, results in the extension of the lease terms on the original contractual terms.

Berger Foundation's argument, however, is inconsistent with fundamental contractual principles, for, in the case of a minimal rental payment, it cannot be said that either party has made an offer, accepted by the other party, to renew the original lease terms. At best, the landlord's implied acquiescence may be construed as an offer, yet the tenant's tender of a minimal rental payment can only be interpreted as a counter-offer,

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since such a tender would be materially inconsistent with the terms of the offer. If the landlord accepts this reduced tender, the terms agreed upon must be construed as those set forth in the counter-offer, a principle codified in CAL. CIV. PRO. § 2076:

The person to whom a tender is made must, at the time, specify any objection he may have to the money, instrument, or property, or he must be deemed to have waived it; and if the objection be to the amount of money, the terms of the instrument, or the amount or kind of property, he must specify the amount, terms, or kind which he requires, or be precluded from objecting afterwards.

See also Taylor v. Taylor, 39 Cal. App. 2d 518, 521 (Cal. Ct. App. 1940) ("It is now settled by these cases that where the tenant tenders, and the landlord accepts, as full payment of the rent, a less monthly rental than that reserved in the lease, he cannot later recover the unpaid balance of the rent reserved.")

While the above principle, a principle of estoppel, is properly subject to the Court's consideration of equities, such consideration would simply not change the fact that a reduced monthly rental payment cannot be considered acquiescence to a renewal of the original contractual terms. In the absence of such mutual agreement to be bound to the original terms, there simply cannot be contractual privity.

Finally, the Court notes that the operation of CAL. CIV. CODE § 1945 is to create a rebuttable presumption that the lease has been extended. Assuming, *arguendo*, that the bankruptcy and contract law issues noted above were not present, it appears probable that such a presumption would be rebutted in the instant case. The Court is not aware of any action taken by Debtor that would support a conclusion that Debtor intended to renew the lease on the original terms, and Berger Foundation has made repeated statements which would be incompatible with the presumption in § 1945. For instance, in the instant motion Berger Foundation made the following statements, which are implicitly and explicitly more compatible with a holdover tenancy than a month-to-month tenancy:

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- "Since the filing of this case, the Debtor has continued, and continues, to occupy the Premises, yet has failed to pay the rental obligation due and owing." [Dkt. No 194, pg. 2 and 4]

- "Based on the fact that the Debtor remained *as a holdover tenant*, and pursuant to the terms of the Lease, the rental obligation increases to approximately \$91,216.50 per month." [Dkt. No. 194, pg. 4 and 10] (emphasis added).

- "Here, the Debtor has made no payments while continuing to occupy the Premises." [Dkt. No. 194, pg. 6].

For the reasons outlined above, the Court concludes that the lease in question was expired as of the petition date because nothing in the record indicates that Berger Foundation provided consent to continued possession of the premises in the less than one-day period between the expiration of the lease and the instant bankruptcy filing. To the extent that Berger Foundation argues that postpetition acts retroactively revived the original lease terms, such retroactive revival would seem to be incompatible with *City v. Hart*, 175 Cal. App. 3d 92, 94 (Cal. Ct. App. 1985). Furthermore, because Debtor did not remotely act in accordance with the original lease terms, it cannot be said that Debtor actions constituted a renewal of those terms; if any lease was entered into postpetition, it must have been on substantially different terms, which would require notice and a hearing. Additionally, even if the statutory presumption of CAL. CIV. CODE § 1945 were applicable in the instant situation, the Court concludes that such presumption would likely be rebutted based on the fact that Debtor did not act in accordance with the original terms, and based on Berger Foundation's explicit characterization of Debtor as a holdover tenant.

II. 11 U.S.C. § 503

11 U.S.C. § 503(b)(1)(A) states:

- (b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including –

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(1)(A) the actual, necessary costs and expenses of preserving the estate including –

"An administrative rent claim under this standard is value 'under an objective worth standard that measures the fair and reasonable value of the lease.'" *In re Pac.-Atl. Trading Co.*, 27 F.3d 401, 403 (9th Cir. 1994) (*quoting In re Dant & Russell, Inc.*, 853 F.2d 700, 707 (9th Cir. 1988)). "The rent reserved in the lease is presumptive evidence of fair and reasonable value, but the presumption may be rebutted by demonstrating that the reasonable worth of the lease differs from the contract rate." *In re Thompson*, 788 F.2d 560, 563 (9th Cir. 1986). "Where the debtor or trustee only uses a portion of the lease property, however, he must pay an administrative expense only for that portion of the property." *Id.* at 562. The Court continued the previous hearing for the parties to provide evidence and argument regarding the objective value of the portion of the leased property utilized by Debtor.

Debtor first, very briefly, argues that the parties have implicitly agreed to a rental rate of \$5,000 per month, and that that amount should be used in calculating Berger Foundation's administrative claim. Debtor appears to base this argument on the Court's tentative ruling for the hearing of December 18, 2018; specifically, Debtor refers to *Taylor v. Taylor*, 39 Cal. App. 2d 518, 521 (Cal. Ct. App. 1940). The Court rejects Debtor's approach. The relevant language in the Court's tentative ruling is used to illustrate that, in the context of a holdover tenancy, the original contractual terms do not necessarily control when the parties have acted in a manner which is materially inconsistent with those terms. Importantly, here, the \$5,000 payment discussed by Debtor is not necessarily a "rental" payment, but is more accurately characterized as an "adequate protection" payment. Adequate protection payments may be in amounts substantially different than the actual amount due – for instant, an adequate protection payment may be interest only, or may attempt to estimate the depreciation of the estate, in order to protect the secured creditor's interest. Furthermore, it would not be equitable to apply the estoppel principle codified in CAL. CIV. PRO. § 2076 in the context of bankruptcy, where the lender does have the ability to reject the payment and, without constraint, exercise its traditional state law rights.

Debtor's primary argument is that the contract rate of the lease is an "inappropriate measure" of the objective worth of the lease because Debtor did not use the entirety of the leased premises. Specifically, Debtor argues that it only utilized 4,000 square feet

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of the leased premises. Berger Foundation, on the other hand, makes two arguments in response: (1) that the entirety of the premises were necessary for Debtor to maintain its CMS license; and (2) that Debtor actually utilized the majority of the premises. In support of its argument, Debtor has provided declarations attesting that Debtor only used 4,000 square feet, and that, after moving into a smaller space, Debtor did not lose any funding, or, presumably, its license. Berger Foundation has provided a declaration which includes the vague statement that Debtor "continued to utilize the majority of the Premises."

The record provided to the Court is, unfortunately, unclear and incapable of providing the necessary evidentiary framework for a precise mathematical calculation. First, there is conflicting evidence regarding whether Debtor used only 4,000 square feet. Second, and more importantly, the evidence seems to suggest, but is still unclear, that the Debtor required all the space to maintain its license (or at least thought it had to). Debtor's response states the following: "Although it is true the Debtor was concerned it might lose funding if it lost its physical address in Palm Desert by hastily vacating the Premises, a belief that the Debtor needed a physical address for funding does not trump the Ninth Circuit requirement that the Debtor actually use the entirety of the Premises. In fact, Berger does not cite to any authority for this proposition." [Dkt. No. 323, pg. 10, lines 6-10].

On the record before it, the Court concludes Debtor has failed to demonstrate it did not use the entirety of the premises. More specifically, the Court concludes that there are a variety of ways that a space can be "used," and that that term is not limited to physical occupancy by the tenant. While, again, the record before the Court is less than clear, it appears that Debtor represented that it had control over, and occupancy of, the entirety of the premises for purposes of its licensing and funding. As a result, it appears Debtor continued to "use" the leased premises for some purposes, even if such use did not necessarily amount to physical use of the entirety of the premises for normal business operations. Because Debtor has not established that the use of the full premises was not reasonably necessary to preserve the estate, the Court rejects Debtor's attempt to reduce the space used to 4,000 square foot. As a result, the Court concludes that Debtor has not rebutted the presumption that the contract rate represents the reasonable value of the leased premises used.

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TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of allowing Berger Foundation an administrative claim in the amount of \$172,543.53, less amounts received, and DENY the remainder of the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

Movant(s):

The H. N. and Frances C. Berger

Represented By
David B Golubchik

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6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#26.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 10/30/18, 11/13/18, 12/18/18, 2/26/19, 3/27/19, 5/1/19

Also #25

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

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6:18-10628 Markus Anthony Boyd

Chapter 11

#27.00 Third Interim Fee Application for Compensation for Nicholas W Gebelt, Debtor's Attorney, Period: 4/4/2019 to 6/30/2019, Fee: \$24,570.00, Expenses: \$569.74

Also #28 - #30

EH ____

Docket 160

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/1/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

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6:18-10628 Markus Anthony Boyd

Chapter 11

#28.00 Motion to Approve Settlement Agreement pursuant to Federal Rule of Bankruptcy Procedures Rule 9019

Also #27 - #30

EH ____

Docket 156

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

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6:18-10628 Markus Anthony Boyd

Chapter 11

#29.00 Confirmation of Chapter 11 Plan RE: [102] Amended Chapter 11 Plan 75
Chapter 11 Plan of Reorganization

Also #27 - #30

EH__

Docket 102

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

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6:18-10628 Markus Anthony Boyd

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#30.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 3/20/18, 8/21/18, 10/23/18, 11/27/18, 2/5/19, 5/7/19

Also #27 - #29

EH__

Docket 16

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

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6:19-11267 Anthony Yue Ming Liu

Chapter 11

#31.00 CONT Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Causes of Action .

MOVANT: ANDRZEJ LUCZYNSKI AND Z&M TRADING, INC.

From: 4/16/19, 4/30/19, 5/21/19, 6/11/19, 6/25/19, 7/16/19

Also #32 - #36

EH__

Docket 38

Tentative Ruling:

4/30/2019

Service: Proper
Opposition: Yes.

On February 19, 2019, Anthony Yue Ming Liu ("Debtor") filed a Chapter 11 voluntary petition. On Schedule F, Debtor listed Andrzej Luczynski ("Movant") as the holder of an unsecured claim of \$1,380,000 relating to a civil lawsuit.

On March 12, 2019, Movant filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for tortious exclusion of joint venturer, breach of fiduciary duty, breach of contract, and wrongful eviction. A state court hearing on Debtor's objections to the tentative decision and proposed judgment had been scheduled for February 20, 2019, but was ultimately postponed due to the instant bankruptcy filing. It appears from the contents of the motion that Movant is only requesting to have the state court enter judgment, thereby liquidating Movant's claim.

On April 2, 2019, Debtor filed his opposition. The crux of Debtor's opposition is that the relief from the automatic stay is unnecessary because Movant's claim has been

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CONT...

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effectively liquidated. Debtor notes that "[t]he only issue remaining is a determination of any costs and attorney's fees, which Debtor has attempted to review for reasonableness in hopes that the parties could avoid unnecessary litigation and expenses regarding the same." [Dkt. No. 49, pg. 4, lines 10-12]. On April 9, 2019, Movant filed a reply, effectively arguing that Debtor's opposition does not contain a legal basis upon which relief from stay could be denied.

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

- (1) Whether the relief will result in a partial or 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 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 good or proceeds in question; (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties; (8) whether the judgment claim arising from the foreign action is subject to equitable subordination; (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). In *Roger*, the Court further stated:

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit

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litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all.

Here, the *Curtis* factors weigh in favor of granting relief from the automatic stay. First, the relief requested would result in a complete resolution of the issues. Debtor's argument that relief from stay is not necessary to resolve the issue, because the issue could be resolved through the claim objection process in bankruptcy court, is not persuasive to the Court because it does not directly address the first *Curtis* factor and because, presumably, the state court is in a better position to assess the reasonableness of the fees and costs incurred in its own proceedings. Likewise, the second factor weighs in favor of the relief requested because the entry of a judgment in state court will not interfere with the administration of the bankruptcy estate. Debtor has not raised a plausible argument contending otherwise. A choice by Debtor to possibly incur attorney fees arguing the amount of Movant's fees and costs incurred in the state court proceeding does not constitute interference with the administration of the bankruptcy estate. Finally, the Court finds that the tenth through twelfth *Curtis* factors weigh in favor of granting relief from stay, because the state court proceeding progressed to the point where it was ready for trial, and the state court is in a better position to judge the reasonableness of the fees and costs incurred in its own proceeding.

The Court finds that the third through ninth *Curtis* factors are largely irrelevant in this situation and do not materially affect the Court's analysis. Additionally, the Court is not inclined to find that the instant bankruptcy was filed in bad faith. Movant's only argument made to support a bad faith finding is that the instant case was filed on the eve of the anticipated state court judgment. Noting that Debtor scheduled Movant's claim and does not appear to be attempting to undermine the state court proceeding, the Court cannot conclude that Debtor is acting on bad faith simply because he is attempting to satisfy Movant's claim through a Chapter 11 plan of reorganization.

The Court is inclined to GRANT request for relief pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a) stay. GRANT request under ¶ 2. DENY request for relief under ¶ 7 for lack of cause shown.

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APPEARANCES REQUIRED

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Courtesy NEF

Represented By
Dawn M Coulson
Paul M Stoddard
Mark W Edelstein

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#32.00 Debtor's Motion to Dismiss Bankruptcy Case

Also #31 - #36

EH____

Docket 97

Tentative Ruling:

7/30/19

BACKGROUND

On February 19, 2019, Anthony Liu ("Debtor") filed a Chapter 11 voluntary petition. On June 17, 2019, the Court approved a stipulation between UST and Debtor which provided for waiver of discharge pursuant to 11 U.S.C. § 1141(d)(4).

The claims bar date for non-governmental claims was May 29, 2019. Seven claims were filed in the instant case. The four primary creditors of Debtor are: (1) Andrzej Luczynski ("Luczynski") (\$2,790,321.07); (2) Trustee for the bankruptcy estate of Desert Ice Castle, LLC ("Trustee") (\$1,863,672.10)¹; (3) Z&M Trading, Inc. ("Z&M") (\$662,453.70); and (4) the Law Offices of Mark W. Edelstein APC ("Edelstein") (\$63,620.96).

On July 9, 2019, Debtor filed three motions to approve compromise, reflecting settlements reached with all primary creditors, specifically (a) Luczynski and Z&M; (b) Trustee; and (c) Edelstein. Debtor has indicated that he will pay off, in full, the only two claims not subject to the settlement, which total \$8,270.87.

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Also on July 9, 2019, Debtor filed a motion to dismiss the Chapter 11 case. Trustee has filed a condition non-opposition, asking that: (a) the settlement payment be made prior to the lodging of a dismissal order; and (b) Luczynski withdraw the proofs of claims filed in the bankruptcy case of Desert Ice Castle, LLC.

DISCUSSION

11 U.S.C. § 1112(b)(1) states:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

Section 1112(b)(4) provides a non-exhaustive list of examples of cause. While Debtor is a party in interest pursuant to § 1109(b), the examples of cause outlined in § 1112(b)(4) are addressing to a non-debtor party. When a Chapter 11 debtor satisfies all claims against the estate without the use of a plan, however, the creditors no longer have any interest in the bankruptcy case moving forward. Additionally, in this case, Debtor has waived discharge, so, likewise, the Debtor would appear to have no interest in the case moving forward. Therefore, the Court is inclined to GRANT the motion, DISMISSING the case on the conditions set forth in Debtor's motion and Trustee's conditional non-opposition, and subject to the issues raised in the Court's tentative ruling relating to the compromise motions.

APPEARANCES REQUIRED.

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Chapter 11

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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Chapter 11

#33.00 Debtor's Motion to Approve Compromise with Mark Edelstein

Also #31 - #36

EH____

Docket 95

Tentative Ruling:

7/30/19

BACKGROUND

On February 19, 2019, Anthony Liu ("Debtor") filed a Chapter 11 voluntary petition. On June 17, 2019, the Court approved a stipulation between UST and Debtor which provided for waiver of discharge pursuant to 11 U.S.C. § 1141(d)(4).

The claims bar date for non-governmental claims was May 29, 2019. Seven claims were filed in the instant case. The four primary creditors of Debtor are: (1) Andrzej Luczynski ("Luczynski") (\$2,790,321.07); (2) Trustee for the bankruptcy estate of Desert Ice Castle, LLC ("Trustee") (\$1,863,672.10)¹; (3) Z&M Trading, Inc. ("Z&M") (\$662,453.70); and (4) the Law Offices of Mark W. Edelstein APC ("Edelstein") (\$63,620.96).

On July 9, 2019, Debtor filed three motions to approve compromise, reflecting settlements reached with (a) Luczynski and Z&M; (b) Trustee; and (c) Edelstein. The Court did not receive any timely opposition to the compromise motions.

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The pertinent facts of the three compromises are as follows:

- 1) Debtor to pay Lucynski and Z&M \$3,156,621.53, with 7% interest, as follows:
(a) \$250,000 within one week of the effective date of settlement; (b) \$250,000 within sixty days of first payment; (c) \$250,000 within sixty days of second payment; and (d) \$58,000/month thereafter until satisfying the total amount. The payment obligations of Debtor are to be secured by a deed of trust against certain real property of Debtor.
- 2) Debtor to pay Trustee \$60,000 within one week of the effective date of the settlement.
- 3) Debtor to pay Edelstein \$45,000 within one week of the effective date of the settlement.

The settlement resolves all claims against Debtor, and contains a mutual release of all claims, and a dismissal of all pending actions. Debtor has indicated that he will pay off, in full, the only two claims not subject to the settlement, which total \$8,270.87.

DISCUSSION

I. Legal Standard for Approving Compromise

Pursuant to 11 U.S.C. § 1107(a), Debtor has all the rights and duties of a trustee. Rule 9019(a) authorizes the bankruptcy court to approve a compromise or settlement on the trustee's motion and after notice and a hearing. The bankruptcy court must consider all "factors relevant to a full and fair assessment of the wisdom of the proposed compromise." *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968). In other words, the bankruptcy court must find that the settlement is "fair and equitable" in order to approve it. *Martin v. Kane (In re A & C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

In conducting this inquiry, the bankruptcy court must consider the following factors:

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(a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Id.

The bankruptcy court enjoys broad discretion in approving a compromise because it "is uniquely situated to consider the equities and reasonableness [of it]" *United States v. Alaska Nat'l Bank (In re Walsh Construction, Inc.)*, 669 F.2d 1325, 1328 (9th Cir. 1982). As stated in *A & C Props.*:

The purpose of a compromise agreement is to allow the trustee and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims. The law favors compromise and not litigation for its own sake, and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision must be affirmed.

Id. (citations omitted).

The factual situation here is rather unique because Debtor has reached settlements with all of the significant creditors in this bankruptcy case, while asserting that he will pay off the two small creditors in full. Therefore, all creditors: (a) will be paid off in full; or (b) have expressly consented to the treatment of their claim. As a result, the final A&C factor, the interests of creditors, which in this situation is the predominant concern when assessing the fairness and reasonableness of the settlement, strongly, probably conclusively weighs in favor of settlement. As noted by Debtor, the second A&C factor is inapplicable here because Debtor is not trying to collect from the other parties to the settlement. And the first and third factors would appear to also weigh in favor of settlement, given that Debtor was faced with a tentative ruling indicating that the Court was inclined to rule against him, and because the amount of the claims at issue would likely cause significant litigation.

There is one technical issue that remains, applicable to both the three compromise motions, as well as the concurrently scheduled motion to dismiss the Chapter 11 case.

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Debtor, by seeking a dismissal of the underlying bankruptcy cases and by settling with the three primary creditors, is, in effect, either proposing a *sub rosa* plan or seeking a structured dismissal (or both); such a proposal cannot violate the Code's priority scheme. *See, e.g., In re Cont'l Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986) ("§ 363 does not authorize a debtor and the bankruptcy court 'to short circuit the requirements of a reorganization plan by establishing the terms of the plan *sub rosa* in connection' with a proposed transaction."); *see also Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 984 (2017) ("The priority system applicable to those distributions has long been considered fundamental to the Bankruptcy Code's operation. The importance of the priority system leads us to expect more than simple statutory silence if, and when, Congress were to intend a major departure. Put somewhat more directly, we would expect to see some affirmative indication of intent if Congress actually meant to make structured dismissals a backdoor means to achieve the exact kind of nonconsensual priority-violating final distributions that the Code prohibits in Chapter 7 liquidations and Chapter 11 plans.").

Debtor seems to have anticipated this issue, noting in all three compromise motions and the motion to dismiss, that he would pay off the two non-settling creditors who filed proofs of claims, and also identifying the various scheduled creditors who did not file proofs of claims. There are, however, two remaining issues that have not been resolved. First, FED. R. BANKR. P. Rule 3003(b)(1) provides that, in Chapter 11 cases, a creditor whose claim is scheduled by Debtor, generally need not file a proof of claim, but may rely on the amount admitted by Debtor instead. Debtor's declaration in the motion to dismiss addresses this to some degree, but it is not sufficient to overcome the prohibitions against paying outside of the priority scheme. Second, the claims bar date for non-governmental claims is August 19, 2019, and, therefore, has not yet expired, potentially allowing for the filing of additional priority claims.

TENTATIVE RULING

Debtor to address the two issues raised in the preceding paragraph, and, specifically, whether and how remaining creditors should be paid.

APPEARANCES REQUIRED.

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Chapter 11

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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#34.00 Debtor's Motion to Approve Compromise with Andrzej Luczynski and Z&M Trading, Inc.

Also #31 - #36

EH____

Docket 96

Tentative Ruling:

7/30/19

BACKGROUND

On February 19, 2019, Anthony Liu ("Debtor") filed a Chapter 11 voluntary petition. On June 17, 2019, the Court approved a stipulation between UST and Debtor which provided for waiver of discharge pursuant to 11 U.S.C. § 1141(d)(4).

The claims bar date for non-governmental claims was May 29, 2019. Seven claims were filed in the instant case. The four primary creditors of Debtor are: (1) Andrzej Luczynski ("Luczynski") (\$2,790,321.07); (2) Trustee for the bankruptcy estate of Desert Ice Castle, LLC ("Trustee") (\$1,863,672.10)¹; (3) Z&M Trading, Inc. ("Z&M") (\$662,453.70); and (4) the Law Offices of Mark W. Edelstein APC ("Edelstein") (\$63,620.96).

On July 9, 2019, Debtor filed three motions to approve compromise, reflecting settlements reached with (a) Luczynski and Z&M; (b) Trustee; and (c) Edelstein. The Court did not receive any timely opposition to the compromise motions.

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The pertinent facts of the three compromises are as follows:

- 1) Debtor to pay Lucynski and Z&M \$3,156,621.53, with 7% interest, as follows: (a) \$250,000 within one week of the effective date of settlement; (b) \$250,000 within sixty days of first payment; (c) \$250,000 within sixty days of second payment; and (d) \$58,000/month thereafter until satisfying the total amount. The payment obligations of Debtor are to be secured by a deed of trust against certain real property of Debtor.
- 2) Debtor to pay Trustee \$60,000 within one week of the effective date of the settlement.
- 3) Debtor to pay Edelstein \$45,000 within one week of the effective date of the settlement.

The settlement resolves all claims against Debtor, and contains a mutual release of all claims, and a dismissal of all pending actions. Debtor has indicated that he will pay off, in full, the only two claims not subject to the settlement, which total \$8,270.87.

DISCUSSION

I. Legal Standard for Approving Compromise

Pursuant to 11 U.S.C. § 1107(a), Debtor has all the rights and duties of a trustee. Rule 9019(a) authorizes the bankruptcy court to approve a compromise or settlement on the trustee's motion and after notice and a hearing. The bankruptcy court must consider all "factors relevant to a full and fair assessment of the wisdom of the proposed compromise." *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968). In other words, the bankruptcy court must find that the settlement is "fair and equitable" in order to approve it. *Martin v. Kane (In re A & C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

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Chapter 11

In conducting this inquiry, the bankruptcy court must consider the following factors:

(a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Id.

The bankruptcy court enjoys broad discretion in approving a compromise because it "is uniquely situated to consider the equities and reasonableness [of it]" *United States v. Alaska Nat'l Bank (In re Walsh Construction, Inc.)*, 669 F.2d 1325, 1328 (9th Cir. 1982). As stated in *A & C Props.*:

The purpose of a compromise agreement is to allow the trustee and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims. The law favors compromise and not litigation for its own sake, and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision must be affirmed.

Id. (citations omitted).

The factual situation here is rather unique because Debtor has reached settlements with all of the significant creditors in this bankruptcy case, while asserting that he will pay off the two small creditors in full. Therefore, all creditors: (a) will be paid off in full; or (b) have expressly consented to the treatment of their claim. As a result, the final A&C factor, the interests of creditors, which in this situation is the predominant concern when assessing the fairness and reasonableness of the settlement, strongly, probably conclusively weighs in favor of settlement. As noted by Debtor, the second A&C factor is inapplicable here because Debtor is not trying to collect from the other parties to the settlement. And the first and third factors would appear to also weigh in favor of settlement, given that Debtor was faced with a tentative ruling indicating that the Court was inclined to rule against him, and because the amount of the claims at issue would likely cause significant litigation.

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There is one technical issue that remains, applicable to both the three compromise motions, as well as the concurrently scheduled motion to dismiss the Chapter 11 case. Debtor, by seeking a dismissal of the underlying bankruptcy cases and by settling with the three primary creditors, is, in effect, either proposing a *sub rosa* plan or seeking a structured dismissal (or both); such a proposal cannot violate the Code's priority scheme. *See, e.g., In re Cont'l Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986) ("§ 363 does not authorize a debtor and the bankruptcy court 'to short circuit the requirements of a reorganization plan by establishing the terms of the plan *sub rosa* in connection' with a proposed transaction."); *see also Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 984 (2017) ("The priority system applicable to those distributions has long been considered fundamental to the Bankruptcy Code's operation. The importance of the priority system leads us to expect more than simple statutory silence if, and when, Congress were to intend a major departure. Put somewhat more directly, we would expect to see some affirmative indication of intent if Congress actually meant to make structured dismissals a backdoor means to achieve the exact kind of nonconsensual priority-violating final distributions that the Code prohibits in Chapter 7 liquidations and Chapter 11 plans.").

Debtor seems to have anticipated this issue, noting in all three compromise motions and the motion to dismiss, that he would pay off the two non-settling creditors who filed proofs of claims, and also identifying the various scheduled creditors who did not file proofs of claims. There are, however, two remaining issues that have not been resolved. First, FED. R. BANKR. P. Rule 3003(b)(1) provides that, in Chapter 11 cases, a creditor whose claim is scheduled by Debtor, generally need not file a proof of claim, but may rely on the amount admitted by Debtor instead. Debtor's declaration in the motion to dismiss addresses this to some degree, but it is not sufficient to overcome the prohibitions against paying outside of the priority scheme. Second, the claims bar date for non-governmental claims is August 19, 2019, and, therefore, has not yet expired, potentially allowing for the filing of additional priority claims.

TENTATIVE RULING

Debtor to address the two issues raised in the preceding paragraph, and, specifically, whether and how remaining creditors should be paid.

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APPEARANCES REQUIRED.

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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#35.00 Debtor's Motion to Approve Compromise with Trustee for Chapter 7 Estate of Desert Ice Castle, LLC

Also #31 - #36

EH ____

Docket 94

Tentative Ruling:

7/30/19

BACKGROUND

On February 19, 2019, Anthony Liu ("Debtor") filed a Chapter 11 voluntary petition. On June 17, 2019, the Court approved a stipulation between UST and Debtor which provided for waiver of discharge pursuant to 11 U.S.C. § 1141(d)(4).

The claims bar date for non-governmental claims was May 29, 2019. Seven claims were filed in the instant case. The four primary creditors of Debtor are: (1) Andrzej Luczynski ("Luczynski") (\$2,790,321.07); (2) Trustee for the bankruptcy estate of Desert Ice Castle, LLC ("Trustee") (\$1,863,672.10)¹; (3) Z&M Trading, Inc. ("Z&M") (\$662,453.70); and (4) the Law Offices of Mark W. Edelstein APC ("Edelstein") (\$63,620.96).

On July 9, 2019, Debtor filed three motions to approve compromise, reflecting settlements reached with (a) Luczynski and Z&M; (b) Trustee; and (c) Edelstein. The Court did not receive any timely opposition to the compromise motions.

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Chapter 11

The pertinent facts of the three compromises are as follows:

- 1) Debtor to pay Lucynski and Z&M \$3,156,621.53, with 7% interest, as follows: (a) \$250,000 within one week of the effective date of settlement; (b) \$250,000 within sixty days of first payment; (c) \$250,000 within sixty days of second payment; and (d) \$58,000/month thereafter until satisfying the total amount. The payment obligations of Debtor are to be secured by a deed of trust against certain real property of Debtor.
- 2) Debtor to pay Trustee \$60,000 within one week of the effective date of the settlement.
- 3) Debtor to pay Edelstein \$45,000 within one week of the effective date of the settlement.

The settlement resolves all claims against Debtor, and contains a mutual release of all claims, and a dismissal of all pending actions. Debtor has indicated that he will pay off, in full, the only two claims not subject to the settlement, which total \$8,270.87.

DISCUSSION

I. Legal Standard for Approving Compromise

Pursuant to 11 U.S.C. § 1107(a), Debtor has all the rights and duties of a trustee. Rule 9019(a) authorizes the bankruptcy court to approve a compromise or settlement on the trustee's motion and after notice and a hearing. The bankruptcy court must consider all "factors relevant to a full and fair assessment of the wisdom of the proposed compromise." *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968). In other words, the bankruptcy court must find that the settlement is "fair and equitable" in order to approve it. *Martin v. Kane (In re A & C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

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In conducting this inquiry, the bankruptcy court must consider the following factors:

(a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Id.

The bankruptcy court enjoys broad discretion in approving a compromise because it "is uniquely situated to consider the equities and reasonableness [of it]" *United States v. Alaska Nat'l Bank (In re Walsh Construction, Inc.)*, 669 F.2d 1325, 1328 (9th Cir. 1982). As stated in *A & C Props.*:

The purpose of a compromise agreement is to allow the trustee and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims. The law favors compromise and not litigation for its own sake, and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision must be affirmed.

Id. (citations omitted).

The factual situation here is rather unique because Debtor has reached settlements with all of the significant creditors in this bankruptcy case, while asserting that he will pay off the two small creditors in full. Therefore, all creditors: (a) will be paid off in full; or (b) have expressly consented to the treatment of their claim. As a result, the final A&C factor, the interests of creditors, which in this situation is the predominant concern when assessing the fairness and reasonableness of the settlement, strongly, probably conclusively weighs in favor of settlement. As noted by Debtor, the second A&C factor is inapplicable here because Debtor is not trying to collect from the other parties to the settlement. And the first and third factors would appear to also weigh in favor of settlement, given that Debtor was faced with a tentative ruling indicating that the Court was inclined to rule against him, and because the amount of the claims at issue would likely cause significant litigation.

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There is one technical issue that remains, applicable to both the three compromise motions, as well as the concurrently scheduled motion to dismiss the Chapter 11 case. Debtor, by seeking a dismissal of the underlying bankruptcy cases and by settling with the three primary creditors, is, in effect, either proposing a *sub rosa* plan or seeking a structured dismissal (or both); such a proposal cannot violate the Code's priority scheme. *See, e.g., In re Cont'l Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986) ("§ 363 does not authorize a debtor and the bankruptcy court 'to short circuit the requirements of a reorganization plan by establishing the terms of the plan *sub rosa* in connection' with a proposed transaction."); *see also Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 984 (2017) ("The priority system applicable to those distributions has long been considered fundamental to the Bankruptcy Code's operation. The importance of the priority system leads us to expect more than simple statutory silence if, and when, Congress were to intend a major departure. Put somewhat more directly, we would expect to see some affirmative indication of intent if Congress actually meant to make structured dismissals a backdoor means to achieve the exact kind of nonconsensual priority-violating final distributions that the Code prohibits in Chapter 7 liquidations and Chapter 11 plans.").

Debtor seems to have anticipated this issue, noting in all three compromise motions and the motion to dismiss, that he would pay off the two non-settling creditors who filed proofs of claims, and also identifying the various scheduled creditors who did not file proofs of claims. There are, however, two remaining issues that have not been resolved. First, FED. R. BANKR. P. Rule 3003(b)(1) provides that, in Chapter 11 cases, a creditor whose claim is scheduled by Debtor, generally need not file a proof of claim, but may rely on the amount admitted by Debtor instead. Debtor's declaration in the motion to dismiss addresses this to some degree, but it is not sufficient to overcome the prohibitions against paying outside of the priority scheme. Second, the claims bar date for non-governmental claims is August 19, 2019, and, therefore, has not yet expired, potentially allowing for the filing of additional priority claims.

TENTATIVE RULING

Debtor to address the two issues raised in the preceding paragraph, and, specifically, whether and how remaining creditors should be paid.

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Riverside
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CONT... Anthony Yue Ming Liu

Chapter 11

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

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Hearing Room 303

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6:19-11267 Anthony Yue Ming Liu

Chapter 11

#36.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 3/26/19; 6/25/19, 7/16/19

Also #31 - #35

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
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6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#37.00 Motion for substantive consolidation of debtors' estates 6:19-bk-13127-MH
(**Lead Case**) with 6:19-bk-13130-MH; 6:19-bk-13131-MH; 6:19-bk-13132-MH;
6:19-bk-13133-MH

Also #38 & #39

EH ____

Docket 121

Tentative Ruling:

7/30/19

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware Inc., 9 Fingers, Inc., P&P Hardware, Inc. Riverside Ace Hardware, Inc., and Wildomar Ace Hardware, Inc. (collectively, "Debtors") all filed Chapter 11 voluntary petitions; their cases are jointly administered as of July 12, 2019. On April 23, 2019, Debtors filed motions to consolidate the cases. Debtors also filed an application shortening time, however, the Court denied the application, and the motions to consolidate were ultimately set for hearing on June 4, 2019. At the hearings of June 4, 2019, the Court denied the motions to consolidate without prejudice.

On July 9, 2019, Debtors filed a second motion for substantive consolidation. The primary grounds for substantive consolidation remain unchanged -- that Debtors are controlled by the same two individuals, Paul & Pamela Shanabarger (collectively, the "Shanabargers"), and that the Shanabargers "have admittedly historically failed to observe corporate formalities in the conduct of their business as between themselves, sharing and co-mingling funds extensively, routinely transferring funds between the entities as needed and without adhering to corporate formalities." [Dkt. No 121, pg.

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CONT... **Woodcrest Ace Hardware Inc.**
2].

Chapter 11

Debtors have now added an additional argument in support of substantive consolidation: UST's objection to the employment application of Debtors' counsel, Rosenstein & Associates ("Counsel"), on the grounds that each of the individual corporations may have conflicting and adverse interests. Additionally, California Bank & Trust filed a similar limited objection to the employment of Counsel. Debtors submit that, in the event the cases are not substantively consolidated, forcing each individual Debtor to obtain separate counsel would result in significantly increased administrative costs, severely burdening Debtors.

On July 16, 2019, the Court received a limited opposition from California Bank & Trust, and an opposition from National Cooperative Bank. On July 23, 2019, Debtors filed their reply.

DISCUSSION

The Ninth Circuit has recently reiterated that:

To determine whether substantive consolidation is appropriate, a bankruptcy court evaluates "(i) whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit; or (ii) whether the affairs of the debtors are so entangled that consolidation will benefit all creditors. The sole aim of this analysis is fairness to all creditors.

Matter of Transwest Resort Props., Inc., 881 F.3d 724, 732 (9th Cir. 2018) (quotations and citations omitted); *see also In re Bonham*, 229 F.3d 750, 771 (9th Cir. 2000) ("In either case, the bankruptcy court must in essence determine that the assets of all of the consolidated parties are substantially the same."). And the Ninth Circuit has

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CONT... Woodcrest Ace Hardware Inc.

Chapter 11

previously stated that, when applying this test:

The presence of either factor is a sufficient basis to order substantive consolidation. The first factor, reliance on the separate credit of the entity, is based on the consideration that lenders structure their loans according to their expectations regarding the borrower and do not anticipate either having the assets of a more sound company available in the case of insolvency or having the creditors of a less sound debtor compete for the borrower's assets. Consolidation under the second factor, entanglement of the debtor's affairs, is justified only where the time and expense necessary even to attempt to unscramble them is so substantial as to threaten the realization of any net assets for all the creditors or where no accurate identification and allocation of assets is possible.

In re Bonham, 229 F.3d at 766. Furthermore, "substantive consolidation should be used sparingly and in keeping with its equitable nature." *In re R&S St. Rose Lenders, LLC*, 756 Fed. Appx. 731, 733 (9th Cir. 2019) (quotations omitted). "The party seeking to consolidate entities has the burden of establishing either allegation." *In re Howland*, 674 Fed. Appx. 482, 488 (6th Cir. 2017).

The fundamental problem with Debtors' renewed request for substantive consolidation is that it appears that the only new evidence presented by Debtors – that UST has objected to the employment application of Counsel on, primarily, the basis that the individual debtors **may** have adverse interests – is not relevant to the legal test to be applied by this Court. As the Third Circuit has previously stated: "Mere benefit to the administration of the case (for example, allowing a court to simplify a case by avoiding other issues or to make postpetition accounting more convenient) is hardly a harm calling substantive consolidation into play." *In re Owens Corning*, 419 F.3d 195, 211 (3rd Cir. 2005).

Here, Debtors do not appear to have raised material evidence to satisfy the first step of the *Bonham* test (that creditors relied on the entity as a single economic unit), instead focusing on the second factor, the entanglement of the financial affairs of Debtors. While there is some evidence to submit a finding that Debtor has satisfied the second factor, it does not appear that there is any *new* evidence to warrant a different ruling

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CONT... Woodcrest Ace Hardware Inc.

Chapter 11

from the Court. Quite simply, as the Ninth Circuit stated in *In re Bonham*, the remedy sought should be used sparingly and only when affairs are so "excessively entangled" that "consolidation will benefit *all* creditors." 229 F.3d 750 at 766. Here, that showing has not been made.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#38.00 Application to Employ Rosenstein & Associates as Bankruptcy Counsel

Also #37 & #39

EH ____

Docket 76

Tentative Ruling:

7/30/2019

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware Inc., 9 Fingers, Inc., P&P Hardware, Inc. Riverside Ace Hardware, Inc., and Wildomar Ace Hardware, Inc. (collectively, the "Debtors") all filed Chapter 11 voluntary petitions; their cases are jointly administered as of July 12, 2019.

On May 24, 2019, Debtors filed an application to employ bankruptcy counsel, seeking to employ Rosenstein & Associates ("Counsel") retroactive to April 24, 2019. On June 7, 2019, UST filed its objection, arguing that the "extensive inter-company transactions" of the Debtors "may create potential and/or actual conflicts that may preclude the Firm from providing joint representation. [Dkt. No 95, pg. 2]. UST requests that: (a) Debtors amended their statement of financial affairs to disclose all inter-company transaction; (b) Counsel supplement its Rule 2014 disclosures; and (c) supplemental briefing be allowed regarding whether Counsel is "disinterested or represents adverse interests under Section 327 and whether Counsel complied with the disclosure requirements of Rule 2014." On June 10, 2019, California Bank & Trust filed a limited opposition, requesting that any employment order: (a) require Debtors to employ separate counsel with respect to any matter in which the individual Debtors have adverse interests; and (b) require Counsel to separately track the time and

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CONT... Woodcrest Ace Hardware Inc.

Chapter 11

expenses incurred on behalf of each individual debtor. On July 23, 2019, Debtors filed a reply, agreeing to the conditions set forth in the limited opposition filed by California Bank & Trust, but not directly addressing the concerns raised by UST.

DISCUSSION

FED. R. BANKR. P. Rule 2014(a) states:

An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professionals pursuant to § 327, § 1103, or § 1114 of the Code shall be made only on application of the trustee or committee. The application shall be filed and, unless the case is a chapter 9 municipality case, a copy of the application shall be transmitted by the applicant to the United States trustee. The application shall state the specific facts showing the necessity for the employment, the name of the person to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. The application shall be accompanied by a verified statement of the person to be employed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

Here, Counsel has adequately disclosed that he is seeking employment for each of the five different debtor corporations. While the objection of UST is cursory, it would appear that UST is requesting Counsel to make clear the extent of the inter-company transactions. The Court finds this to be a reasonable request, especially given that the future administration of the cases may be substantially affected by the magnitude of the transactions.

UST also requests that the Court "permit the parties to submit supplemental briefing

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CONT... **Woodcrest Ace Hardware Inc.**

Chapter 11

on whether Counsel is disinterested or represents adverse interests under Section 327." [Dkt. No. 73, pg. 3]. As noted by California Bank & Trust, the Court applies a two-pronged test in reviewing employment under 11 U.S.C. § 327, reviewing: (1) disinterestedness; and (2) whether the applicant holds or represents an interest adverse to the estate. *See In re Treasures, Inc.*, 2015 WL at 925957 at *15 (B.A.P. 9th Cir. 2015)., UST & California Bank & Trust suggest that the inter-company transactions may result in a situation where Counsel would represent interests adverse to a bankruptcy estate that Counsel simultaneously represents.

The Bankruptcy Appellate Panel has outlined the definition of "adverse interest":

The reported cases have defined what it means to *hold* an adverse interest as follows: (1) to possess or assert any economic interest that would tend to lessen the value of the bankruptcy estate or that would create either an actual or potential dispute in which the estate is a rival claimant; or (2) to possess a predisposition under circumstances that render such a bias against the estate.

To *represent* an adverse interest means to serve as an attorney for an entity holding such an adverse interest.

In re Tevis, 347 B.R. 679, 688 (B.A.P. 9th Cir. 2006) (citations omitted). The Court notes that the Bankruptcy Appellate Panel then quoted, and briefly discussed California Rules of Professional Conduct Rule 3-310, which is the rule governing of conflicts of interest. The Court notes that this rule allows conflicts to be waived by the informed written consent of client; it is not clear, however, that the Bankruptcy Appellate Panel applied this rule, or considered it relevant to the analysis under § 327. The Court does note, however, that accepting representation where even a potential conflict is present requires informed written consent under Professional Rule 3-310.

In the context of 11 U.S.C. § 327, where a proposed counsel clearly has a potential conflict, but may not have an actual conflict, or may reasonably be able to limit representation to avoid an actual conflict, there are two different approaches the Court

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CONT... Woodcrest Ace Hardware Inc.

Chapter 11

could take. First, the Court could error on the side of caution and conclude that representation is simply improper. For example, the Court in *In re Lee*, 94 B.R. 172, 180 (Bankr C.D. Cal. 1988) stated the following:

Accordingly, this Court adopts a presumption for two or more related cases, that it is improper to appoint (1) a single trustee, (2) a single creditors' committee, or (3) the same counsel for the trustees, for the creditors' committee or for the debtors in possession under any of the following circumstances:

- (a) Where creditors of the debtors have dealt with such debtors as an economic unit (which may be reflected in guaranties and subordination agreements);
- (b) Where there is a substantial overlap of creditors;
- (c) Where the affairs of the respective debtors (as reflected in inter-debtor accounts, jointly owned assets, guarantees, subordination agreements, or shared officers, directors or owners) appear to be substantially entangled;
- (d) Where assets have been transferred from one debtor to another in transactions that are not at arms length;
- (e) Where piercing of the corporate veil of one of the debtors is necessary or advisable to protect the rights of creditors of another debtor.

Multiple *Lee* factors appear to be present here. On the other hand, the Court could conclude that a potential conflict of interest does not preclude employment so long as strictly tailored precautions are taken to avoid an actual conflict materializing. *See, e.g., In re Stevens*, 2015 WL 3476567 at *10 (Bankr. D. Mon. 2015) ("If the Stevens were creditors, they would have to show that an *actual* conflict of interest exists in order to disapprove Cotner's employment.") (emphasis added). "The Court understands that the term 'materially adverse' to the interest of the estate in § 101(14)(C) requires more than just a potential or theoretical adverse interest." *Id.*

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CONT... Woodcrest Ace Hardware Inc.

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TENTATIVE RULING

Subject to further comments from the United States Trustee, and after the submission of evidence which provides a reasonable accurate description of the extent of the inter-company transactions, the Court is inclined to APPROVE employment on a limited basis as outlined in the limited opposition of California Bank & Trust.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
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6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#39.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/21/19

Also #37 & #38

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

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6:19-13130 9 FINGERS INC

Chapter 11

#40.00 Motion for substantive consolidation of debtors' estates 6:19-bk-13127-MH
(**Lead Case**) with 6:19-bk-13130-MH; 6:19-bk-13131-MH; 6:19-bk-13132-MH;
6:19-bk-13133-MH

Also #41 & #42

EH ____

Docket 88

Tentative Ruling:

7/30/19

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware Inc., 9 Fingers, Inc., P&P Hardware, Inc. Riverside Ace Hardware, Inc., and Wildomar Ace Hardware, Inc. (collectively, "Debtors") all filed Chapter 11 voluntary petitions; their cases are jointly administered as of July 12, 2019. On April 23, 2019, Debtors filed motions to consolidate the cases. Debtors also filed an application shortening time, however, the Court denied the application, and the motions to consolidate were ultimately set for hearing on June 4, 2019. At the hearings of June 4, 2019, the Court denied the motions to consolidate without prejudice.

On July 9, 2019, Debtors filed a second motion for substantive consolidation. The primary grounds for substantive consolidation remain unchanged -- that Debtors are controlled by the same two individuals, Paul & Pamela Shanabarger (collectively, the "Shanabargers"), and that the Shanabargers "have admittedly historically failed to observe corporate formalities in the conduct of their business as between themselves, sharing and co-mingling funds extensively, routinely transferring funds between the entities as needed and without adhering to corporate formalities." [Dkt. No 121, pg.

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CONT... 9 FINGERS INC
2].

Chapter 11

Debtors have now added an additional argument in support of substantive consolidation: UST's objection to the employment application of Debtors' counsel, Rosenstein & Associates ("Counsel"), on the grounds that each of the individual corporations may have conflicting and adverse interests. Additionally, California Bank & Trust filed a similar limited objection to the employment of Counsel. Debtors submit that, in the event the cases are not substantively consolidated, forcing each individual Debtor to obtain separate counsel would result in significantly increased administrative costs, severely burdening Debtors.

On July 16, 2019, the Court received a limited opposition from California Bank & Trust, and an opposition from National Cooperative Bank. On July 23, 2019, Debtors filed their reply.

DISCUSSION

The Ninth Circuit has recently reiterated that:

To determine whether substantive consolidation is appropriate, a bankruptcy court evaluates "(i) whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit; or (ii) whether the affairs of the debtors are so entangled that consolidation will benefit all creditors. The sole aim of this analysis is fairness to all creditors.

Matter of Transwest Resort Props., Inc., 881 F.3d 724, 732 (9th Cir. 2018) (quotations and citations omitted); *see also In re Bonham*, 229 F.3d 750, 771 (9th Cir. 2000) ("In either case, the bankruptcy court must in essence determine that the assets of all of the consolidated parties are substantially the same."). And the Ninth Circuit has

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CONT... 9 FINGERS INC

Chapter 11

previously stated that, when applying this test:

The presence of either factor is a sufficient basis to order substantive consolidation. The first factor, reliance on the separate credit of the entity, is based on the consideration that lenders structure their loans according to their expectations regarding the borrower and do not anticipate either having the assets of a more sound company available in the case of insolvency or having the creditors of a less sound debtor compete for the borrower's assets. Consolidation under the second factor, entanglement of the debtor's affairs, is justified only where the time and expense necessary even to attempt to unscramble them is so substantial as to threaten the realization of any net assets for all the creditors or where no accurate identification and allocation of assets is possible.

In re Bonham, 229 F.3d at 766. Furthermore, "substantive consolidation should be used sparingly and in keeping with its equitable nature." *In re R&S St. Rose Lenders, LLC*, 756 Fed. Appx. 731, 733 (9th Cir. 2019) (quotations omitted). "The party seeking to consolidate entities has the burden of establishing either allegation." *In re Howland*, 674 Fed. Appx. 482, 488 (6th Cir. 2017).

The fundamental problem with Debtors' renewed request for substantive consolidation is that it appears that the only new evidence presented by Debtors – that UST has objected to the employment application of Counsel on, primarily, the basis that the individual debtors **may** have adverse interests – is not relevant to the legal test to be applied by this Court. As the Third Circuit has previously stated: "Mere benefit to the administration of the case (for example, allowing a court to simplify a case by avoiding other issues or to make postpetition accounting more convenient) is hardly a harm calling substantive consolidation into play." *In re Owens Corning*, 419 F.3d 195, 211 (3rd Cir. 2005).

Here, Debtors do not appear to have raised material evidence to satisfy the first step of the *Bonham* test (that creditors relied on the entity as a single economic unit), instead focusing on the second factor, the entanglement of the financial affairs of Debtors. While there is some evidence to submit a finding that Debtor has satisfied the second factor, it does not appear that there is any *new* evidence to warrant a different ruling

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from the Court. Quite simply, as the Ninth Circuit stated in *In re Bonham*, the remedy sought should be used sparingly and only when affairs are so "excessively entangled" that "consolidation will benefit *all* creditors." 229 F.3d 750 at 766. Here, that showing has not been made.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

9 FINGERS INC

Represented By
Robert B Rosenstein

Movant(s):

9 FINGERS INC

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13130 9 FINGERS INC

Chapter 11

#41.00 Application to Employ Rosenstein & Associates as Bankruptcy Counsel

Also #40 & #42

EH ____

Docket 54

Tentative Ruling:

7/30/2019

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware Inc., 9 Fingers, Inc., P&P Hardware, Inc. Riverside Ace Hardware, Inc., and Wildomar Ace Hardware, Inc. (collectively, the "Debtors") all filed Chapter 11 voluntary petitions; their cases are jointly administered as of July 12, 2019.

On May 24, 2019, Debtors filed an application to employ bankruptcy counsel, seeking to employ Rosenstein & Associates ("Counsel") retroactive to April 24, 2019. On June 7, 2019, UST filed its objection, arguing that the "extensive inter-company transactions" of the Debtors "may create potential and/or actual conflicts that may preclude the Firm from providing joint representation. [Dkt. No 95, pg. 2]. UST requests that: (a) Debtors amended their statement of financial affairs to disclose all inter-company transaction; (b) Counsel supplement its Rule 2014 disclosures; and (c) supplemental briefing be allowed regarding whether Counsel is "disinterested or represents adverse interests under Section 327 and whether Counsel complied with the disclosure requirements of Rule 2014." On June 10, 2019, California Bank & Trust filed a limited opposition, requesting that any employment order: (a) require Debtors to employ separate counsel with respect to any matter in which the individual Debtors have adverse interests; and (b) require Counsel to separately track the time and

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CONT... 9 FINGERS INC

Chapter 11

expenses incurred on behalf of each individual debtor. On July 23, 2019, Debtors filed a reply, agreeing to the conditions set forth in the limited opposition filed by California Bank & Trust, but not directly addressing the concerns raised by UST.

DISCUSSION

FED. R. BANKR. P. Rule 2014(a) states:

An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professionals pursuant to § 327, § 1103, or § 1114 of the Code shall be made only on application of the trustee or committee. The application shall be filed and, unless the case is a chapter 9 municipality case, a copy of the application shall be transmitted by the applicant to the United States trustee. The application shall state the specific facts showing the necessity for the employment, the name of the person to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. The application shall be accompanied by a verified statement of the person to be employed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

Here, Counsel has adequately disclosed that he is seeking employment for each of the five different debtor corporations. While the objection of UST is cursory, it would appear that UST is requesting Counsel to make clear the extent of the inter-company transactions. The Court finds this to be a reasonable request, especially given that the future administration of the cases may be substantially affected by the magnitude of the transactions.

UST also requests that the Court "permit the parties to submit supplemental briefing

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CONT... 9 FINGERS INC

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on whether Counsel is disinterested or represents adverse interests under Section 327." [Dkt. No. 73, pg. 3]. As noted by California Bank & Trust, the Court applies a two-pronged test in reviewing employment under 11 U.S.C. § 327, reviewing: (1) disinterestedness; and (2) whether the applicant holds or represents an interest adverse to the estate. *See In re Treasures, Inc.*, 2015 WL at 925957 at *15 (B.A.P. 9th Cir. 2015)., UST & California Bank & Trust suggest that the inter-company transactions may result in a situation where Counsel would represent interests adverse to a bankruptcy estate that Counsel simultaneously represents.

The Bankruptcy Appellate Panel has outlined the definition of "adverse interest":

The reported cases have defined what it means to *hold* an adverse interest as follows: (1) to possess or assert any economic interest that would tend to lessen the value of the bankruptcy estate or that would create either an actual or potential dispute in which the estate is a rival claimant; or (2) to possess a predisposition under circumstances that render such a bias against the estate.

To *represent* an adverse interest means to serve as an attorney for an entity holding such an adverse interest.

In re Tevis, 347 B.R. 679, 688 (B.A.P. 9th Cir. 2006) (citations omitted). The Court notes that the Bankruptcy Appellate Panel then quoted, and briefly discussed California Rules of Professional Conduct Rule 3-310, which is the rule governing of conflicts of interest. The Court notes that this rule allows conflicts to be waived by the informed written consent of client; it is not clear, however, that the Bankruptcy Appellate Panel applied this rule, or considered it relevant to the analysis under § 327. The Court does note, however, that accepting representation where even a potential conflict is present requires informed written consent under Professional Rule 3-310.

In the context of 11 U.S.C. § 327, where a proposed counsel clearly has a potential conflict, but may not have an actual conflict, or may reasonably be able to limit representation to avoid an actual conflict, there are two different approaches the Court

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Chapter 11

could take. First, the Court could error on the side of caution and conclude that representation is simply improper. For example, the Court in *In re Lee*, 94 B.R. 172, 180 (Bankr C.D. Cal. 1988) stated the following:

Accordingly, this Court adopts a presumption for two or more related cases, that it is improper to appoint (1) a single trustee, (2) a single creditors' committee, or (3) the same counsel for the trustees, for the creditors' committee or for the debtors in possession under any of the following circumstances:

- (a) Where creditors of the debtors have dealt with such debtors as an economic unit (which may be reflected in guaranties and subordination agreements);
- (b) Where there is a substantial overlap of creditors;
- (c) Where the affairs of the respective debtors (as reflected in inter-debtor accounts, jointly owned assets, guarantees, subordination agreements, or shared officers, directors or owners) appear to be substantially entangled;
- (d) Where assets have been transferred from one debtor to another in transactions that are not at arms length;
- (e) Where piercing of the corporate veil of one of the debtors is necessary or advisable to protect the rights of creditors of another debtor.

Multiple *Lee* factors appear to be present here. On the other hand, the Court could conclude that a potential conflict of interest does not preclude employment so long as strictly tailored precautions are taken to avoid an actual conflict materializing. *See, e.g., In re Stevens*, 2015 WL 3476567 at *10 (Bankr. D. Mon. 2015) ("If the Stevens were creditors, they would have to show that an *actual* conflict of interest exists in order to disapprove Cotner's employment.") (emphasis added). "The Court understands that the term 'materially adverse' to the interest of the estate in § 101(14)(C) requires more than just a potential or theoretical adverse interest." *Id.*

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CONT... 9 FINGERS INC

Chapter 11

TENTATIVE RULING

Subject to further comments from the United States Trustee, and after the submission of evidence which provides a reasonable accurate description of the extent of the inter-company transactions, the Court is inclined to APPROVE employment on a limited basis as outlined in the limited opposition of California Bank & Trust.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

9 FINGERS INC

Represented By
Robert B Rosenstein

Movant(s):

9 FINGERS INC

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
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6:19-13130 9 FINGERS INC

Chapter 11

#42.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/21/19

Also #40 & #41

EH__

Docket 3

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

9 FINGERS INC

Represented By
Robert B Rosenstein

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Central District of California
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6:19-13131 P&P HARDWARE INC.

Chapter 11

#43.00 Motion for substantive consolidation of debtors' estates 6:19-bk-13127-MH
(**Lead Case**) with 6:19-bk-13130-MH; 6:19-bk-13131-MH; 6:19-bk-13132-MH;
6:19-bk-13133-MH

Also #44 & #45

EH ____

Docket 65

Tentative Ruling:

7/30/19

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware Inc., 9 Fingers, Inc., P&P Hardware, Inc. Riverside Ace Hardware, Inc., and Wildomar Ace Hardware, Inc. (collectively, "Debtors") all filed Chapter 11 voluntary petitions; their cases are jointly administered as of July 12, 2019. On April 23, 2019, Debtors filed motions to consolidate the cases. Debtors also filed an application shortening time, however, the Court denied the application, and the motions to consolidate were ultimately set for hearing on June 4, 2019. At the hearings of June 4, 2019, the Court denied the motions to consolidate without prejudice.

On July 9, 2019, Debtors filed a second motion for substantive consolidation. The primary grounds for substantive consolidation remain unchanged -- that Debtors are controlled by the same two individuals, Paul & Pamela Shanabarger (collectively, the "Shanabargers"), and that the Shanabargers "have admittedly historically failed to observe corporate formalities in the conduct of their business as between themselves, sharing and co-mingling funds extensively, routinely transferring funds between the entities as needed and without adhering to corporate formalities." [Dkt. No 121, pg.

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CONT... **P&P HARDWARE INC.**
2].

Chapter 11

Debtors have now added an additional argument in support of substantive consolidation: UST's objection to the employment application of Debtors' counsel, Rosenstein & Associates ("Counsel"), on the grounds that each of the individual corporations may have conflicting and adverse interests. Additionally, California Bank & Trust filed a similar limited objection to the employment of Counsel. Debtors submit that, in the event the cases are not substantively consolidated, forcing each individual Debtor to obtain separate counsel would result in significantly increased administrative costs, severely burdening Debtors.

On July 16, 2019, the Court received a limited opposition from California Bank & Trust, and an opposition from National Cooperative Bank. On July 23, 2019, Debtors filed their reply.

DISCUSSION

The Ninth Circuit has recently reiterated that:

To determine whether substantive consolidation is appropriate, a bankruptcy court evaluates "(i) whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit; or (ii) whether the affairs of the debtors are so entangled that consolidation will benefit all creditors. The sole aim of this analysis is fairness to all creditors.

Matter of Transwest Resort Props., Inc., 881 F.3d 724, 732 (9th Cir. 2018) (quotations and citations omitted); *see also In re Bonham*, 229 F.3d 750, 771 (9th Cir. 2000) ("In either case, the bankruptcy court must in essence determine that the assets of all of the consolidated parties are substantially the same."). And the Ninth Circuit has

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CONT... **P&P HARDWARE INC.**

Chapter 11

previously stated that, when applying this test:

The presence of either factor is a sufficient basis to order substantive consolidation. The first factor, reliance on the separate credit of the entity, is based on the consideration that lenders structure their loans according to their expectations regarding the borrower and do not anticipate either having the assets of a more sound company available in the case of insolvency or having the creditors of a less sound debtor compete for the borrower's assets. Consolidation under the second factor, entanglement of the debtor's affairs, is justified only where the time and expense necessary even to attempt to unscramble them is so substantial as to threaten the realization of any net assets for all the creditors or where no accurate identification and allocation of assets is possible.

In re Bonham, 229 F.3d at 766. Furthermore, "substantive consolidation should be used sparingly and in keeping with its equitable nature." *In re R&S St. Rose Lenders, LLC*, 756 Fed. Appx. 731, 733 (9th Cir. 2019) (quotations omitted). "The party seeking to consolidate entities has the burden of establishing either allegation." *In re Howland*, 674 Fed. Appx. 482, 488 (6th Cir. 2017).

The fundamental problem with Debtors' renewed request for substantive consolidation is that it appears that the only new evidence presented by Debtors – that UST has objected to the employment application of Counsel on, primarily, the basis that the individual debtors **may** have adverse interests – is not relevant to the legal test to be applied by this Court. As the Third Circuit has previously stated: "Mere benefit to the administration of the case (for example, allowing a court to simplify a case by avoiding other issues or to make postpetition accounting more convenient) is hardly a harm calling substantive consolidation into play." *In re Owens Corning*, 419 F.3d 195, 211 (3rd Cir. 2005).

Here, Debtors do not appear to have raised material evidence to satisfy the first step of the *Bonham* test (that creditors relied on the entity as a single economic unit), instead focusing on the second factor, the entanglement of the financial affairs of Debtors. While there is some evidence to submit a finding that Debtor has satisfied the second factor, it does not appear that there is any *new* evidence to warrant a different ruling

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CONT... P&P HARDWARE INC.

Chapter 11

from the Court. Quite simply, as the Ninth Circuit stated in *In re Bonham*, the remedy sought should be used sparingly and only when affairs are so "excessively entangled" that "consolidation will benefit *all* creditors." 229 F.3d 750 at 766. Here, that showing has not been made.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

P&P HARDWARE INC.

Represented By
Robert B Rosenstein

Movant(s):

P&P HARDWARE INC.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13131 P&P HARDWARE INC.

Chapter 11

#44.00 Application to Employ Rosenstein & Associates as Bankruptcy Counsel

Also #43 & #45

EH ____

Docket 37

Tentative Ruling:

7/30/2019

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware Inc., 9 Fingers, Inc., P&P Hardware, Inc. Riverside Ace Hardware, Inc., and Wildomar Ace Hardware, Inc. (collectively, the "Debtors") all filed Chapter 11 voluntary petitions; their cases are jointly administered as of July 12, 2019.

On May 24, 2019, Debtors filed an application to employ bankruptcy counsel, seeking to employ Rosenstein & Associates ("Counsel") retroactive to April 24, 2019. On June 7, 2019, UST filed its objection, arguing that the "extensive inter-company transactions" of the Debtors "may create potential and/or actual conflicts that may preclude the Firm from providing joint representation. [Dkt. No 95, pg. 2]. UST requests that: (a) Debtors amended their statement of financial affairs to disclose all inter-company transaction; (b) Counsel supplement its Rule 2014 disclosures; and (c) supplemental briefing be allowed regarding whether Counsel is "disinterested or represents adverse interests under Section 327 and whether Counsel complied with the disclosure requirements of Rule 2014." On June 10, 2019, California Bank & Trust filed a limited opposition, requesting that any employment order: (a) require Debtors to employ separate counsel with respect to any matter in which the individual Debtors have adverse interests; and (b) require Counsel to separately track the time and

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CONT... P&P HARDWARE INC.

Chapter 11

expenses incurred on behalf of each individual debtor. On July 23, 2019, Debtors filed a reply, agreeing to the conditions set forth in the limited opposition filed by California Bank & Trust, but not directly addressing the concerns raised by UST.

DISCUSSION

FED. R. BANKR. P. Rule 2014(a) states:

An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professionals pursuant to § 327, § 1103, or § 1114 of the Code shall be made only on application of the trustee or committee. The application shall be filed and, unless the case is a chapter 9 municipality case, a copy of the application shall be transmitted by the applicant to the United States trustee. The application shall state the specific facts showing the necessity for the employment, the name of the person to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. The application shall be accompanied by a verified statement of the person to be employed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

Here, Counsel has adequately disclosed that he is seeking employment for each of the five different debtor corporations. While the objection of UST is cursory, it would appear that UST is requesting Counsel to make clear the extent of the inter-company transactions. The Court finds this to be a reasonable request, especially given that the future administration of the cases may be substantially affected by the magnitude of the transactions.

UST also requests that the Court "permit the parties to submit supplemental briefing

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CONT... **P&P HARDWARE INC.**

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on whether Counsel is disinterested or represents adverse interests under Section 327." [Dkt. No. 73, pg. 3]. As noted by California Bank & Trust, the Court applies a two-pronged test in reviewing employment under 11 U.S.C. § 327, reviewing: (1) disinterestedness; and (2) whether the applicant holds or represents an interest adverse to the estate. *See In re Treasures, Inc.*, 2015 WL at 925957 at *15 (B.A.P. 9th Cir. 2015)., UST & California Bank & Trust suggest that the inter-company transactions may result in a situation where Counsel would represent interests adverse to a bankruptcy estate that Counsel simultaneously represents.

The Bankruptcy Appellate Panel has outlined the definition of "adverse interest":

The reported cases have defined what it means to *hold* an adverse interest as follows: (1) to possess or assert any economic interest that would tend to lessen the value of the bankruptcy estate or that would create either an actual or potential dispute in which the estate is a rival claimant; or (2) to possess a predisposition under circumstances that render such a bias against the estate.

To *represent* an adverse interest means to serve as an attorney for an entity holding such an adverse interest.

In re Tevis, 347 B.R. 679, 688 (B.A.P. 9th Cir. 2006) (citations omitted). The Court notes that the Bankruptcy Appellate Panel then quoted, and briefly discussed California Rules of Professional Conduct Rule 3-310, which is the rule governing of conflicts of interest. The Court notes that this rule allows conflicts to be waived by the informed written consent of client; it is not clear, however, that the Bankruptcy Appellate Panel applied this rule, or considered it relevant to the analysis under § 327. The Court does note, however, that accepting representation where even a potential conflict is present requires informed written consent under Professional Rule 3-310.

In the context of 11 U.S.C. § 327, where a proposed counsel clearly has a potential conflict, but may not have an actual conflict, or may reasonably be able to limit representation to avoid an actual conflict, there are two different approaches the Court

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CONT... P&P HARDWARE INC.

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could take. First, the Court could error on the side of caution and conclude that representation is simply improper. For example, the Court in *In re Lee*, 94 B.R. 172, 180 (Bankr C.D. Cal. 1988) stated the following:

Accordingly, this Court adopts a presumption for two or more related cases, that it is improper to appoint (1) a single trustee, (2) a single creditors' committee, or (3) the same counsel for the trustees, for the creditors' committee or for the debtors in possession under any of the following circumstances:

- (a) Where creditors of the debtors have dealt with such debtors as an economic unit (which may be reflected in guaranties and subordination agreements);
- (b) Where there is a substantial overlap of creditors;
- (c) Where the affairs of the respective debtors (as reflected in inter-debtor accounts, jointly owned assets, guarantees, subordination agreements, or shared officers, directors or owners) appear to be substantially entangled;
- (d) Where assets have been transferred from one debtor to another in transactions that are not at arms length;
- (e) Where piercing of the corporate veil of one of the debtors is necessary or advisable to protect the rights of creditors of another debtor.

Multiple *Lee* factors appear to be present here. On the other hand, the Court could conclude that a potential conflict of interest does not preclude employment so long as strictly tailored precautions are taken to avoid an actual conflict materializing. *See, e.g., In re Stevens*, 2015 WL 3476567 at *10 (Bankr. D. Mon. 2015) ("If the Stevens were creditors, they would have to show that an *actual* conflict of interest exists in order to disapprove Cotner's employment.") (emphasis added). "The Court understands that the term 'materially adverse' to the interest of the estate in § 101(14)(C) requires more than just a potential or theoretical adverse interest." *Id.*

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CONT... P&P HARDWARE INC.

Chapter 11

TENTATIVE RULING

Subject to further comments from the United States Trustee, and after the submission of evidence which provides a reasonable accurate description of the extent of the inter-company transactions, the Court is inclined to APPROVE employment on a limited basis as outlined in the limited opposition of California Bank & Trust.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

P&P HARDWARE INC.

Represented By
Robert B Rosenstein

Movant(s):

P&P HARDWARE INC.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13131 P&P HARDWARE INC.

Chapter 11

#45.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/21/19

Also #43 & #44

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

P&P HARDWARE INC.

Represented By
Robert B Rosenstein

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6:19-13132 RIVERSIDE ACE HARDWARE INC.

Chapter 11

#46.00 Motion for substantive consolidation of debtors' estates 6:19-bk-13127-MH
(**Lead Case**) with 6:19-bk-13130-MH; 6:19-bk-13131-MH; 6:19-bk-13132-MH;
6:19-bk-13133-MH

Also #47 & #48

EH ____

Docket 88

Tentative Ruling:

7/30/19

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware Inc., 9 Fingers, Inc., P&P Hardware, Inc. Riverside Ace Hardware, Inc., and Wildomar Ace Hardware, Inc. (collectively, "Debtors") all filed Chapter 11 voluntary petitions; their cases are jointly administered as of July 12, 2019. On April 23, 2019, Debtors filed motions to consolidate the cases. Debtors also filed an application shortening time, however, the Court denied the application, and the motions to consolidate were ultimately set for hearing on June 4, 2019. At the hearings of June 4, 2019, the Court denied the motions to consolidate without prejudice.

On July 9, 2019, Debtors filed a second motion for substantive consolidation. The primary grounds for substantive consolidation remain unchanged -- that Debtors are controlled by the same two individuals, Paul & Pamela Shanabarger (collectively, the "Shanabargers"), and that the Shanabargers "have admittedly historically failed to observe corporate formalities in the conduct of their business as between themselves, sharing and co-mingling funds extensively, routinely transferring funds between the entities as needed and without adhering to corporate formalities." [Dkt. No 121, pg.

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CONT... **RIVERSIDE ACE HARDWARE INC.**
2].

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Debtors have now added an additional argument in support of substantive consolidation: UST's objection to the employment application of Debtors' counsel, Rosenstein & Associates ("Counsel"), on the grounds that each of the individual corporations may have conflicting and adverse interests. Additionally, California Bank & Trust filed a similar limited objection to the employment of Counsel. Debtors submit that, in the event the cases are not substantively consolidated, forcing each individual Debtor to obtain separate counsel would result in significantly increased administrative costs, severely burdening Debtors.

On July 16, 2019, the Court received a limited opposition from California Bank & Trust, and an opposition from National Cooperative Bank. On July 23, 2019, Debtors filed their reply.

DISCUSSION

The Ninth Circuit has recently reiterated that:

To determine whether substantive consolidation is appropriate, a bankruptcy court evaluates "(i) whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit; or (ii) whether the affairs of the debtors are so entangled that consolidation will benefit all creditors. The sole aim of this analysis is fairness to all creditors.

Matter of Transwest Resort Props., Inc., 881 F.3d 724, 732 (9th Cir. 2018) (quotations and citations omitted); *see also In re Bonham*, 229 F.3d 750, 771 (9th Cir. 2000) ("In either case, the bankruptcy court must in essence determine that the assets of all of the consolidated parties are substantially the same."). And the Ninth Circuit has

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CONT... RIVERSIDE ACE HARDWARE INC.

Chapter 11

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The presence of either factor is a sufficient basis to order substantive consolidation. The first factor, reliance on the separate credit of the entity, is based on the consideration that lenders structure their loans according to their expectations regarding the borrower and do not anticipate either having the assets of a more sound company available in the case of insolvency or having the creditors of a less sound debtor compete for the borrower's assets. Consolidation under the second factor, entanglement of the debtor's affairs, is justified only where the time and expense necessary even to attempt to unscramble them is so substantial as to threaten the realization of any net assets for all the creditors or where no accurate identification and allocation of assets is possible.

In re Bonham, 229 F.3d at 766. Furthermore, "substantive consolidation should be used sparingly and in keeping with its equitable nature." *In re R&S St. Rose Lenders, LLC*, 756 Fed. Appx. 731, 733 (9th Cir. 2019) (quotations omitted). "The party seeking to consolidate entities has the burden of establishing either allegation." *In re Howland*, 674 Fed. Appx. 482, 488 (6th Cir. 2017).

The fundamental problem with Debtors' renewed request for substantive consolidation is that it appears that the only new evidence presented by Debtors – that UST has objected to the employment application of Counsel on, primarily, the basis that the individual debtors **may** have adverse interests – is not relevant to the legal test to be applied by this Court. As the Third Circuit has previously stated: "Mere benefit to the administration of the case (for example, allowing a court to simplify a case by avoiding other issues or to make postpetition accounting more convenient) is hardly a harm calling substantive consolidation into play." *In re Owens Corning*, 419 F.3d 195, 211 (3rd Cir. 2005).

Here, Debtors do not appear to have raised material evidence to satisfy the first step of the *Bonham* test (that creditors relied on the entity as a single economic unit), instead focusing on the second factor, the entanglement of the financial affairs of Debtors. While there is some evidence to submit a finding that Debtor has satisfied the second factor, it does not appear that there is any *new* evidence to warrant a different ruling

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CONT... RIVERSIDE ACE HARDWARE INC.

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TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13132 RIVERSIDE ACE HARDWARE INC.

Chapter 11

#47.00 Application to Employ Rosenstein & Associates as Bankruptcy Counsel

Also #46 & #48

EH ____

Docket 52

Tentative Ruling:

7/30/2019

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware Inc., 9 Fingers, Inc., P&P Hardware, Inc. Riverside Ace Hardware, Inc., and Wildomar Ace Hardware, Inc. (collectively, the "Debtors") all filed Chapter 11 voluntary petitions; their cases are jointly administered as of July 12, 2019.

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Chapter 11

expenses incurred on behalf of each individual debtor. On July 23, 2019, Debtors filed a reply, agreeing to the conditions set forth in the limited opposition filed by California Bank & Trust, but not directly addressing the concerns raised by UST.

DISCUSSION

FED. R. BANKR. P. Rule 2014(a) states:

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Here, Counsel has adequately disclosed that he is seeking employment for each of the five different debtor corporations. While the objection of UST is cursory, it would appear that UST is requesting Counsel to make clear the extent of the inter-company transactions. The Court finds this to be a reasonable request, especially given that the future administration of the cases may be substantially affected by the magnitude of the transactions.

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CONT... **RIVERSIDE ACE HARDWARE INC.**

Chapter 11

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The Bankruptcy Appellate Panel has outlined the definition of "adverse interest":

The reported cases have defined what it means to *hold* an adverse interest as follows: (1) to possess or assert any economic interest that would tend to lessen the value of the bankruptcy estate or that would create either an actual or potential dispute in which the estate is a rival claimant; or (2) to possess a predisposition under circumstances that render such a bias against the estate.

To *represent* an adverse interest means to serve as an attorney for an entity holding such an adverse interest.

In re Tevis, 347 B.R. 679, 688 (B.A.P. 9th Cir. 2006) (citations omitted). The Court notes that the Bankruptcy Appellate Panel then quoted, and briefly discussed California Rules of Professional Conduct Rule 3-310, which is the rule governing of conflicts of interest. The Court notes that this rule allows conflicts to be waived by the informed written consent of client; it is not clear, however, that the Bankruptcy Appellate Panel applied this rule, or considered it relevant to the analysis under § 327. The Court does note, however, that accepting representation where even a potential conflict is present requires informed written consent under Professional Rule 3-310.

In the context of 11 U.S.C. § 327, where a proposed counsel clearly has a potential conflict, but may not have an actual conflict, or may reasonably be able to limit representation to avoid an actual conflict, there are two different approaches the Court

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CONT... RIVERSIDE ACE HARDWARE INC.

Chapter 11

could take. First, the Court could error on the side of caution and conclude that representation is simply improper. For example, the Court in *In re Lee*, 94 B.R. 172, 180 (Bankr C.D. Cal. 1988) stated the following:

Accordingly, this Court adopts a presumption for two or more related cases, that it is improper to appoint (1) a single trustee, (2) a single creditors' committee, or (3) the same counsel for the trustees, for the creditors' committee or for the debtors in possession under any of the following circumstances:

- (a) Where creditors of the debtors have dealt with such debtors as an economic unit (which may be reflected in guaranties and subordination agreements);
- (b) Where there is a substantial overlap of creditors;
- (c) Where the affairs of the respective debtors (as reflected in inter-debtor accounts, jointly owned assets, guarantees, subordination agreements, or shared officers, directors or owners) appear to be substantially entangled;
- (d) Where assets have been transferred from one debtor to another in transactions that are not at arms length;
- (e) Where piercing of the corporate veil of one of the debtors is necessary or advisable to protect the rights of creditors of another debtor.

Multiple *Lee* factors appear to be present here. On the other hand, the Court could conclude that a potential conflict of interest does not preclude employment so long as strictly tailored precautions are taken to avoid an actual conflict materializing. *See, e.g., In re Stevens*, 2015 WL 3476567 at *10 (Bankr. D. Mon. 2015) ("If the Stevens were creditors, they would have to show that an *actual* conflict of interest exists in order to disapprove Cotner's employment.") (emphasis added). "The Court understands that the term 'materially adverse' to the interest of the estate in § 101(14)(C) requires more than just a potential or theoretical adverse interest." *Id.*

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CONT... RIVERSIDE ACE HARDWARE INC.

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TENTATIVE RULING

Subject to further comments from the United States Trustee, and after the submission of evidence which provides a reasonable accurate description of the extent of the inter-company transactions, the Court is inclined to APPROVE employment on a limited basis as outlined in the limited opposition of California Bank & Trust.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13132 RIVERSIDE ACE HARDWARE INC.

Chapter 11

#48.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 5/21/19

Also #46 & #47

EH__

Docket 3

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein

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6:19-13133 WILDOMAR ACE HARDWARE INC.

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#49.00 Motion for substantive consolidation of debtors' estates 6:19-bk-13127-MH
(**Lead Case**) with 6:19-bk-13130-MH; 6:19-bk-13131-MH; 6:19-bk-13132-MH;
6:19-bk-13133-MH

Also #50 & #51

EH ____

Docket 89

Tentative Ruling:

7/30/19

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware Inc., 9 Fingers, Inc., P&P Hardware, Inc. Riverside Ace Hardware, Inc., and Wildomar Ace Hardware, Inc. (collectively, "Debtors") all filed Chapter 11 voluntary petitions; their cases are jointly administered as of July 12, 2019. On April 23, 2019, Debtors filed motions to consolidate the cases. Debtors also filed an application shortening time, however, the Court denied the application, and the motions to consolidate were ultimately set for hearing on June 4, 2019. At the hearings of June 4, 2019, the Court denied the motions to consolidate without prejudice.

On July 9, 2019, Debtors filed a second motion for substantive consolidation. The primary grounds for substantive consolidation remain unchanged -- that Debtors are controlled by the same two individuals, Paul & Pamela Shanabarger (collectively, the "Shanabargers"), and that the Shanabargers "have admittedly historically failed to observe corporate formalities in the conduct of their business as between themselves, sharing and co-mingling funds extensively, routinely transferring funds between the entities as needed and without adhering to corporate formalities." [Dkt. No 121, pg.

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2].

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Debtors have now added an additional argument in support of substantive consolidation: UST's objection to the employment application of Debtors' counsel, Rosenstein & Associates ("Counsel"), on the grounds that each of the individual corporations may have conflicting and adverse interests. Additionally, California Bank & Trust filed a similar limited objection to the employment of Counsel. Debtors submit that, in the event the cases are not substantively consolidated, forcing each individual Debtor to obtain separate counsel would result in significantly increased administrative costs, severely burdening Debtors.

On July 16, 2019, the Court received a limited opposition from California Bank & Trust, and an opposition from National Cooperative Bank. On July 23, 2019, Debtors filed their reply.

DISCUSSION

The Ninth Circuit has recently reiterated that:

To determine whether substantive consolidation is appropriate, a bankruptcy court evaluates "(i) whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit; or (ii) whether the affairs of the debtors are so entangled that consolidation will benefit all creditors. The sole aim of this analysis is fairness to all creditors.

Matter of Transwest Resort Props., Inc., 881 F.3d 724, 732 (9th Cir. 2018) (quotations and citations omitted); *see also In re Bonham*, 229 F.3d 750, 771 (9th Cir. 2000) ("In either case, the bankruptcy court must in essence determine that the assets of all of the consolidated parties are substantially the same."). And the Ninth Circuit has

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previously stated that, when applying this test:

The presence of either factor is a sufficient basis to order substantive consolidation. The first factor, reliance on the separate credit of the entity, is based on the consideration that lenders structure their loans according to their expectations regarding the borrower and do not anticipate either having the assets of a more sound company available in the case of insolvency or having the creditors of a less sound debtor compete for the borrower's assets. Consolidation under the second factor, entanglement of the debtor's affairs, is justified only where the time and expense necessary even to attempt to unscramble them is so substantial as to threaten the realization of any net assets for all the creditors or where no accurate identification and allocation of assets is possible.

In re Bonham, 229 F.3d at 766. Furthermore, "substantive consolidation should be used sparingly and in keeping with its equitable nature." *In re R&S St. Rose Lenders, LLC*, 756 Fed. Appx. 731, 733 (9th Cir. 2019) (quotations omitted). "The party seeking to consolidate entities has the burden of establishing either allegation." *In re Howland*, 674 Fed. Appx. 482, 488 (6th Cir. 2017).

The fundamental problem with Debtors' renewed request for substantive consolidation is that it appears that the only new evidence presented by Debtors – that UST has objected to the employment application of Counsel on, primarily, the basis that the individual debtors **may** have adverse interests – is not relevant to the legal test to be applied by this Court. As the Third Circuit has previously stated: "Mere benefit to the administration of the case (for example, allowing a court to simplify a case by avoiding other issues or to make postpetition accounting more convenient) is hardly a harm calling substantive consolidation into play." *In re Owens Corning*, 419 F.3d 195, 211 (3rd Cir. 2005).

Here, Debtors do not appear to have raised material evidence to satisfy the first step of the *Bonham* test (that creditors relied on the entity as a single economic unit), instead focusing on the second factor, the entanglement of the financial affairs of Debtors. While there is some evidence to submit a finding that Debtor has satisfied the second factor, it does not appear that there is any *new* evidence to warrant a different ruling

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CONT... WILDOMAR ACE HARDWARE INC.

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from the Court. Quite simply, as the Ninth Circuit stated in *In re Bonham*, the remedy sought should be used sparingly and only when affairs are so "excessively entangled" that "consolidation will benefit *all* creditors." 229 F.3d 750 at 766. Here, that showing has not been made.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13133 WILDOMAR ACE HARDWARE INC.

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#50.00 Application to Employ Rosenstein & Associates as Bankruptcy Counsel

Also #49 & #51

EH ____

Docket 55

Tentative Ruling:

7/30/2019

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware Inc., 9 Fingers, Inc., P&P Hardware, Inc. Riverside Ace Hardware, Inc., and Wildomar Ace Hardware, Inc. (collectively, the "Debtors") all filed Chapter 11 voluntary petitions; their cases are jointly administered as of July 12, 2019.

On May 24, 2019, Debtors filed an application to employ bankruptcy counsel, seeking to employ Rosenstein & Associates ("Counsel") retroactive to April 24, 2019. On June 7, 2019, UST filed its objection, arguing that the "extensive inter-company transactions" of the Debtors "may create potential and/or actual conflicts that may preclude the Firm from providing joint representation. [Dkt. No 95, pg. 2]. UST requests that: (a) Debtors amended their statement of financial affairs to disclose all inter-company transaction; (b) Counsel supplement its Rule 2014 disclosures; and (c) supplemental briefing be allowed regarding whether Counsel is "disinterested or represents adverse interests under Section 327 and whether Counsel complied with the disclosure requirements of Rule 2014." On June 10, 2019, California Bank & Trust filed a limited opposition, requesting that any employment order: (a) require Debtors to employ separate counsel with respect to any matter in which the individual Debtors have adverse interests; and (b) require Counsel to separately track the time and

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CONT... WILDOMAR ACE HARDWARE INC.

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expenses incurred on behalf of each individual debtor. On July 23, 2019, Debtors filed a reply, agreeing to the conditions set forth in the limited opposition filed by California Bank & Trust, but not directly addressing the concerns raised by UST.

DISCUSSION

FED. R. BANKR. P. Rule 2014(a) states:

An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professionals pursuant to § 327, § 1103, or § 1114 of the Code shall be made only on application of the trustee or committee. The application shall be filed and, unless the case is a chapter 9 municipality case, a copy of the application shall be transmitted by the applicant to the United States trustee. The application shall state the specific facts showing the necessity for the employment, the name of the person to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. The application shall be accompanied by a verified statement of the person to be employed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

Here, Counsel has adequately disclosed that he is seeking employment for each of the five different debtor corporations. While the objection of UST is cursory, it would appear that UST is requesting Counsel to make clear the extent of the inter-company transactions. The Court finds this to be a reasonable request, especially given that the future administration of the cases may be substantially affected by the magnitude of the transactions.

UST also requests that the Court "permit the parties to submit supplemental briefing

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on whether Counsel is disinterested or represents adverse interests under Section 327." [Dkt. No. 73, pg. 3]. As noted by California Bank & Trust, the Court applies a two-pronged test in reviewing employment under 11 U.S.C. § 327, reviewing: (1) disinterestedness; and (2) whether the applicant holds or represents an interest adverse to the estate. *See In re Treasures, Inc.*, 2015 WL at 925957 at *15 (B.A.P. 9th Cir. 2015)., UST & California Bank & Trust suggest that the inter-company transactions may result in a situation where Counsel would represent interests adverse to a bankruptcy estate that Counsel simultaneously represents.

The Bankruptcy Appellate Panel has outlined the definition of "adverse interest":

The reported cases have defined what it means to *hold* an adverse interest as follows: (1) to possess or assert any economic interest that would tend to lessen the value of the bankruptcy estate or that would create either an actual or potential dispute in which the estate is a rival claimant; or (2) to possess a predisposition under circumstances that render such a bias against the estate.

To *represent* an adverse interest means to serve as an attorney for an entity holding such an adverse interest.

In re Tevis, 347 B.R. 679, 688 (B.A.P. 9th Cir. 2006) (citations omitted). The Court notes that the Bankruptcy Appellate Panel then quoted, and briefly discussed California Rules of Professional Conduct Rule 3-310, which is the rule governing of conflicts of interest. The Court notes that this rule allows conflicts to be waived by the informed written consent of client; it is not clear, however, that the Bankruptcy Appellate Panel applied this rule, or considered it relevant to the analysis under § 327. The Court does note, however, that accepting representation where even a potential conflict is present requires informed written consent under Professional Rule 3-310.

In the context of 11 U.S.C. § 327, where a proposed counsel clearly has a potential conflict, but may not have an actual conflict, or may reasonably be able to limit representation to avoid an actual conflict, there are two different approaches the Court

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CONT... WILDOMAR ACE HARDWARE INC.

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could take. First, the Court could error on the side of caution and conclude that representation is simply improper. For example, the Court in *In re Lee*, 94 B.R. 172, 180 (Bankr C.D. Cal. 1988) stated the following:

Accordingly, this Court adopts a presumption for two or more related cases, that it is improper to appoint (1) a single trustee, (2) a single creditors' committee, or (3) the same counsel for the trustees, for the creditors' committee or for the debtors in possession under any of the following circumstances:

- (a) Where creditors of the debtors have dealt with such debtors as an economic unit (which may be reflected in guaranties and subordination agreements);
- (b) Where there is a substantial overlap of creditors;
- (c) Where the affairs of the respective debtors (as reflected in inter-debtor accounts, jointly owned assets, guarantees, subordination agreements, or shared officers, directors or owners) appear to be substantially entangled;
- (d) Where assets have been transferred from one debtor to another in transactions that are not at arms length;
- (e) Where piercing of the corporate veil of one of the debtors is necessary or advisable to protect the rights of creditors of another debtor.

Multiple *Lee* factors appear to be present here. On the other hand, the Court could conclude that a potential conflict of interest does not preclude employment so long as strictly tailored precautions are taken to avoid an actual conflict materializing. *See, e.g., In re Stevens*, 2015 WL 3476567 at *10 (Bankr. D. Mon. 2015) ("If the Stevens were creditors, they would have to show that an *actual* conflict of interest exists in order to disapprove Cotner's employment.") (emphasis added). "The Court understands that the term 'materially adverse' to the interest of the estate in § 101(14)(C) requires more than just a potential or theoretical adverse interest." *Id.*

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TENTATIVE RULING

Subject to further comments from the United States Trustee, and after the submission of evidence which provides a reasonable accurate description of the extent of the inter-company transactions, the Court is inclined to APPROVE employment on a limited basis as outlined in the limited opposition of California Bank & Trust.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13133 WILDOMAR ACE HARDWARE INC.

Chapter 11

#51.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/21/19

Also #49 & #50

EH__

Docket 3

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein

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11:00 AM

6:19-12732 Armando Gutierrez

Chapter 7

#1.00 CONT Pro se Reaffirmation Agreement Between Debtor and ONEMAIN
FINANCIAL re 2002 GMC

From: 7/17/19

EH__

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Armando Gutierrez

Represented By
Daniel King

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:11-12667 Maximino Romero Torres and Rebecca Anne Torres

Chapter 7

#2.00 Debtor's Motion to Avoid Lien under with Ford Motor Credit Company

EH ____

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maximino Romero Torres

Represented By
James A Alderson

Joint Debtor(s):

Rebecca Anne Torres

Represented By
James A Alderson

Trustee(s):

Patricia J Zimmermann (TR)

Pro Se

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11:00 AM

6:13-10775 Nereo Gomez

Chapter 7

#3.00 CONT Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) --Motion for Order: (1) Approving Compromise; and (2) Authorizing Trustee to Sell Real Property, Free and Clear of Liens, Subject to Overbid

From: 5/22/19

EH__

Docket 27

Tentative Ruling:

5/22/19

BACKGROUND

On January 15, 2013, Nereo Gomez ("Debtor") filed a Chapter 7 voluntary petition. On April 29, 2013, Debtor received a discharge; the case was closed two days later.

On January 3, 2018, upon motion by UST, the Court reopened the case. On January 12, 2018, Trustee filed a notice of assets.

On April 30, 2019, Trustee filed the instant motion for approval of compromise and sale of real property (the "Motion"). The Court has not received any opposition to the Motion.

The Motion relates to certain unencumbered vacant land in Fontana (the "Property").

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CONT... Nereo Gomez

Chapter 7

The Property is subject to state court litigation filed by Lawrence Schoelch (the "Buyer"). who owns adjoining land, and filed a state court complaint which included quiet title, trespass, slander/disparagement of title, and setoff or offset. Pursuant to the motion, Trustee seeks to sell the Property, free and clear, to Buyer, and Buyer will then dismiss the pending state court litigation with prejudice.

DISCUSSION

The Court notes three different issues with the Motion.

First, the Motion does not contain any detailed evidence which would enable the Court to assess the reasonableness of the underlying compromise and sale of the Property. The only evidence relating to the fair market value of the Property is Trustee's unsubstantiated assertion that "the Sales Price represents the fair market value for the Real Property considering the unique characteristics of the Real Property and the State Court Action that affects the marketability of the Real Property." [Dkt No. 27, pg 22, lines 18-21]. Regarding the compromise of the state court litigation, the Court has no meaningful evidence which would allow the Court to analyze the reasonableness of the compromise.

Second, while the Court is aware that the proposed sale is the result of a compromise with Buyer, the Court notes that there appears to have been minimal marketing or noticing of the sale. If the Motion had been primarily styled as a compromise motion, which included a sale, rather than a sale motion, which included a compromise, then it may have been appropriate to simply inquire whether there was a reasonable possibility of overbids. As a sale motion, however, the Motion falls materially short of the typical marketing and notice requirements.

Third, if the Court were to construe the motion as a compromise motion, the Motion fails to provide adequate notice. Specifically, the Motion utilizes the standard sale

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CONT... Nereo Gomez

Chapter 7

motion notice procedures, which include serving notice on all creditors, but only serving the actual motion on certain parties. An actual compromise motion, on the other hand, is required to be served on all parties.

Pursuant to the previous two paragraphs, the Motions, a hybrid compromise-sale motion, does not satisfy the marketing requirements necessary for a sale motion nor does it satisfy the notice requirements necessary for a compromise motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Nereo Gomez

Represented By
John F Brady

Movant(s):

Howard B Grobstein (TR)

Represented By
Nancy H Zamora

Trustee(s):

Howard B Grobstein (TR)

Represented By
Nancy H Zamora

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11:00 AM

6:17-16272 Martha Lorena Soto Jimenez

Chapter 7

#4.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 71

Tentative Ruling:

TENTATIVE RULING

Date: 7/31/2019
Opposition: None
Service: Proper

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 13,081.81
Trustee Expenses: \$ 108.69

Attorney Fees: \$ 29,717.50
Attorney Expenses: \$ 1,688.80

Accountant Fees: \$ 1,806.00
Accountant Expenses: \$ 273.10

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

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CONT... Martha Lorena Soto Jimenez

Chapter 7

Debtor(s):

Martha Lorena Soto Jimenez

Represented By
Marlin Branstetter

Trustee(s):

Todd A. Frealy (TR)

Represented By
Carmela Pagay

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11:00 AM

6:18-13057 Desert Ice Castle, LLC

Chapter 7

#5.00 Motion for Order Approving Compromise of Controversy Between Chapter 7 Trustee, Debtor, Anthony Yue Ming Liu, Ice Castle, Inc. and Magic Ice, LLC Pursuant to Federal Rule of Bankruptcy Procedure 9019

EH ____

Docket 91

***** VACATED *** REASON: ADVANCED TO 7/30/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Desert Ice Castle, LLC

Represented By
Paul M Stoddard

Movant(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

United States Bankruptcy Court
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Wednesday, July 31, 2019

Hearing Room 303

11:00 AM

6:19-12378 Frank Hernandez

Chapter 7

#6.00 Debtor's Motion for Order Redeeming Vehicle re: 2012 Mercedes-Benz C-Class Sedan

EH ____

Docket 15

*** VACATED *** REASON: ORDER ENTERED 7/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Hernandez

Represented By
Leonard J Cravens

Movant(s):

Frank Hernandez

Represented By
Leonard J Cravens

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-14360 Gyasi Tabari Griffin

Chapter 7

#7.00 Order to show cause re dismissal for failure to comply with rule 1006(B) -
Installments

EH__

Docket 0

***** VACATED *** REASON: SECOND INSTALLMENT PAYMENT
PAID 7/12/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gyasi Tabari Griffin

Pro Se

Trustee(s):

Steven M Speier (TR)

Pro Se

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11:00 AM

6:19-15045 Howard Edward Terrell, Jr.

Chapter 7

#8.00 Creditor, CA Home Buyers 247, LLC Motion to Dismiss Case with a Bar to Refiling

EH ____

Docket 11

***** VACATED *** REASON: CONTINUED TO 8/21/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Howard Edward Terrell Jr.

Represented By
John R Setlich

Movant(s):

CA Homebuyres 247 LLC

Represented By
Matthew Abbasi

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

2:00 PM

6:09-37495 Sultan Fakhoury

Chapter 7

Adv#: 6:19-01067 Fakhoury et al v. HAZMAT TSDf INC.

#9.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01067. Complaint by Sultan Fakhoury, Catherine M Fakhoury against Filter Recycling Services Inc, HAZMAT TSDf INC.. (Fee Not Required). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)),(72 (Injunctive relief - other)) (Marchetti, Albert)

From: 6/26/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sultan Fakhoury

Represented By
Gary Swanson

Defendant(s):

HAZMAT TSDf INC.

Pro Se

Joint Debtor(s):

Catherine M Fakhoury

Represented By
Gary Swanson

Plaintiff(s):

Sultan Fakhoury

Represented By
Albert W Marchetti

Catherine M Fakhoury

Represented By
Albert W Marchetti

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CONT... Sultan Fakhoury

Chapter 7

Trustee(s):

Patricia J Zimmermann (TR)

Pro Se

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Wednesday, July 31, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#10.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report re **Another Meridian Company LLC**

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19, 5/8/19

Also #11 & #12

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 31, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#11.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report re **ASR Constructors Inc**

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19, 5/8/19

Also #10 & #12

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, July 31, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#12.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report re **Inland Machinery, Inc**

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19, 5/8/19

Also #10 & #11

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Wednesday, July 31, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#13.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01286. Complaint by ASR Constructors Inc a California Corporation, Another Meridian Company, LLC, Inland Machinery, Inc. against Gotte Electric, Inc., Insurance Company Of The West, Employment Development Department, Trico-Savi Business Park, L.P., a California limited partnership, Angela Denise McKnight, Steven Schonder, Western Alliance Bank, an Arizona corporation, United states of america, Carlin Law Group APC, Ledcor Construction, Inc., a Washington corporation, DOES 1 through 10, inclusive. (Charge To Estate - \$350.00). Complaint in Interpleader Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Bastian, James)
Trico-Savi Business Park L.P. - Dismissed 12/28/17
Western Alliance Bank, dba Torrey Pines Bank - Dismissed 2/1/18
Gotte Electric, Inc - Dismissed 3/14/18
Ledcor Construction Inc - Dismissed 3/26/18

From: 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19, 5/8/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 9/17/19 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland

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CONT... ASR Constructors Inc a California Corporation Chapter 11

David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

United states of america

Represented By
Charles Parker
Najah J Shariff

Carlin Law Group APC

Represented By
Kevin R Carlin

DOES 1 through 10, inclusive

Pro Se

Plaintiff(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
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2:00 PM

6:18-16831 Young Jin Yoon

Chapter 7

Adv#: 6:18-01210 Kim v. Yoon et al

#14.00 CONT Status Conference Re: [1] Adversary case 6:18-ap-01210. Complaint by Vivian Kim against Young Jin Yoon, Hyunmyung Park, Joshua Park. false pretenses, false representation, actual fraud, 72 - Injunctive relief - other, 13 - Recovery of money/property - 548 fraudulent transfer, 68 - Dischargeability - 523(a)(6), willful and malicious injury

From: 1/9/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Young Jin Yoon

Represented By
Ji Yoon Kim

Defendant(s):

Young Jin Yoon

Represented By
Ji Yoon Kim

Hyun Myung Park

Represented By
Ji Yoon Kim

Joshua Park

Represented By
Ji Yoon Kim

Plaintiff(s):

Vivian Kim

Represented By
Jiyoung Kym

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CONT... Young Jin Yoon

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, July 31, 2019

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2:00 PM

6:19-11766 Hassan Mohamad Adib Yahya

Chapter 13

Adv#: 6:19-01084 SCHOOLSFIRST FEDERAL CREDIT UNION v. Yahya

#15.00 Status Conference re: Complaint by SCHOOLSFIRST FEDERAL CREDIT UNION against Hassan Mohamad Adib Yahya Nature of Suit: (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud))

EH ____

Docket 1

***** VACATED *** REASON: ANOTHER SUMMONS ISSUED -
ADVERSARY CONTINUED TO 8/1/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hassan Mohamad Adib Yahya

Represented By
Todd L Turoci

Defendant(s):

Hassan Mohamad Adib Yahya

Pro Se

Plaintiff(s):

SCHOOLSFIRST FEDERAL

Represented By
Paul V Reza

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Riverside
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Hearing Room 303

2:00 PM

6:13-30133 Nabeel Slaieh

Chapter 7

Adv#: 6:14-01081 Albrecht v. Slaieh

#16.00 CONT Status Conference RE: [1] Adversary case 6:14-ap-01081. Complaint by W.E. Jon Albrecht against Nabeel Slaieh. willful and malicious injury))

From: 4/17/19, 5/29/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nabeel Slaieh

Represented By
George A Saba - INACTIVE -

Defendant(s):

Nabeel Slaieh

Represented By
Stephen B Mashney
Bruce A Boice

Plaintiff(s):

W E Jon Albrecht

Represented By
William L Miltner
Robert C Harvey

Trustee(s):

Larry D Simons (TR)

Represented By
D Edward Hays
David Wood
Matthew Grimshaw

**United States Bankruptcy Court
Central District of California
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Wednesday, July 31, 2019

Hearing Room 303

2:00 PM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat Chapter 7
Adv#: 6:15-01307 Revere Financial Corporation v. OIC MEDICAL CORPORATION, a

#17.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01307. Complaint by A. Cisneros against OIC MEDICAL CORPORATION, a California corporation, LIBERTY ORTHOPEDIC CORPORATION, a California corporation, UNIVERSAL ORTHOPAEDIC GROUP, a California corporation. (Charge To Estate \$350). for Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))

From: 12/30/15, 2/24/16, 4/13/16, 6/22/16, 8/24/16, 11/2/16, 2/1/17, 3/8/17, 7/12/17, 9/13/17, 11/15/17, 2/14/18, 5/16/18, 7/25/18, 8/22/18, 10/31/18, 11/14/18, 12/12/18, 12/19/18, 3/27/19, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

OIC MEDICAL CORPORATION, a

Represented By
Misty A Perry Isaacson

LIBERTY ORTHOPEDIC

Represented By
Misty Perry Isaacson

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CONT... Douglas J Roger, MD, Inc., A Professional Corporat Chapter 7

Misty A Perry Isaacson

UNIVERSAL ORTHOPAEDIC

Represented By

Misty Perry Isaacson

Misty A Perry Isaacson

Plaintiff(s):

Revere Financial Corporation

Represented By

Franklin R Fraley Jr

Trustee(s):

Arturo Cisneros (TR)

Represented By

Chad V Haes

D Edward Hays

Franklin R Fraley Jr

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2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01163 Revere Financial Corporation v. Burns

#18.00 CONT Status Conference RE: [1] Adversary case 6:16-ap-01163. Complaint by Revere Financial Corporation against Don C. Burns. (12 (Recovery of money/property - 547 preference)),(11 (Recovery of money/property - 542 turnover of property)),(14 (Recovery of money/property - other)),(91 (Declaratory judgment))

From: 8/31/16, 11/2/16, 1/11/17, 3/8/17, 6/7/17, 8/2/17, 8/23/17, 11/8/17, 1/31/18, 4/25/18, 2/27/18, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Don Cameron Burns

Represented By
Don C Burns

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar

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CONT...

Douglas Jay Roger

Carmela Pagay
Franklin R Fraley Jr

Chapter 7

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2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:14-01248 Revere Financial Corporation, a California corpora v. Roger, MD

#19.00 CONT Status Conference RE: Amended Complaint (First) by Revere Financial Corporation and Jerry Wang, as State-Court Appointed Receiver by Franklin R Fraley Jr on behalf of Revere Financial Corporation, a California corporation against Revere Financial Corporation, a California corporation. (Attachments: # 1 Exhibit 1-8)

From: 4/25/18, 6/13/18, 8/22/18, 10/31/18

EH__

Docket 82

***** VACATED *** REASON: CONTINUED TO 9/11/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Douglas J Roger MD

Represented By
Summer M Shaw
Thomas J Eastmond
Marc C Forsythe

Plaintiff(s):

Revere Financial Corporation, a

Represented By
Franklin R Fraley Jr

Jerry Wang

Represented By
Franklin R Fraley Jr
Anthony J Napolitano

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2:00 PM

CONT... Douglas Jay Roger

Chapter 7

A. Cisneros

Represented By
Chad V Haes
D Edward Hays

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

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6:13-27611 Douglas Jay Roger

Chapter 7

**#20.00 CONT Objection to Claim #17 by Revere Financial Corporation
(Holding date)**

From: 10/1/14, 11/5/14, 12/3/14, 12/15/14, 1/28/15, 4/15/15, 7/22/15, 9/23/15,
10/21/15, 11/18/15, 12/16/15, 1/13/16, 3/2/16, 5/4/16, 6/1/16, 9/28/16, 11/16/16,
2/1/17, 2/16/17, 5/3/17, 6/14/17, 6/28/17, 9/20/17, 3/21/18, 6/27/18, 12/19/18,
3/27/19, 5/8/19, 6/12/19

EH____

Docket 333

Tentative Ruling:

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
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Wednesday, July 31, 2019

Hearing Room 303

2:00 PM

6:18-20247 Stephen Lynn Overmyer

Chapter 7

Adv#: 6:19-01039 McCune v. Overmyer

#21.00 Motion For Summary Judgment Against Defendant/Debtor Stephen Overmyer

Also #22

EH ____

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Lynn Overmyer

Represented By
Gordon L Dayton

Defendant(s):

Stephen Overmyer

Represented By
Gordon L Dayton

Movant(s):

B. Lynn McCune

Represented By
James A Rainboldt

Plaintiff(s):

B. Lynn McCune

Represented By
James A Rainboldt

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:18-20247 Stephen Lynn Overmyer

Chapter 7

Adv#: 6:19-01039 McCune v. Overmyer

#22.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01039. Complaint by B. Lynn McCune against Stephen Overmyer . false pretenses, false representation, actual fraud))

From: 4/17/19, 7/31/19

Also #21

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Lynn Overmyer

Represented By
Gordon L Dayton

Defendant(s):

Stephen Overmyer

Represented By
Gordon L Dayton

Plaintiff(s):

B. Lynn McCune

Represented By
James A Rainboldt

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#1.00 Motion To Dismiss Third Amended Cross-Complaint

EH__

Docket 149

Tentative Ruling:

REAL ESTATE BROKER THERESA MANN'S MOTION TO DISMISS THIRD CROSS-COMPLAINT

BACKGROUND

On November 11, 2016, Plaintiffs Mark and Natasha Reynoso ("Plaintiffs") filed an adversarial proceeding against Douglas and Anne Goodman ("Defendants"). Plaintiffs sought to determine the dischargeability of their state court claim against Defendants for misrepresentation. The state court claim was based on the alleged misrepresentations by Defendants and Theresa Mann ("Mann"), Defendants' real estate agent, in regard to the sale of Defendants' home to Plaintiffs. This covered both the actual size of the home, as well as the repairs that needed to be performed on the home.

On June 6, 2017, Defendants filed their first cross-complaint against Mann and Jose Pastora. One May 14, 2019, Defendants filed their third, and most current cross-complaint against Mann and Pastora. Defendants, based on Plaintiffs' claims, allege that it was Mann who made the misrepresentations to Plaintiffs as to the size of the home, and the state of repair of the home, and that Mann held sole responsibility for Plaintiffs' alleged damages. Defendants claim three grounds for relief: (1)- equitable comparative indemnity and apportionment of fault across cross defendants; (2)- total equitable indemnity against all cross defendants; and (3)- negligent misrepresentation.

Defendants request the following relief: (1)- a finding of total and complete indemnity for any judgment rendered against Defendants by Plaintiff; (2)- for judgment in proportionate share from each Cross-Defendant; (3)- for Defendants costs and expenses incurred in the defense of Plaintiff's claim, as well as in bringing their cross-

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Chapter 13

claim against Mann and Pastora, including reasonable attorneys' fees.

On June 7, 2019, counsel for Defendants emailed counsel for Mann to inform him that Defendants and Plaintiffs had settled Plaintiffs' claim. According to Defendants in their opposition to this motion to dismiss (addressed in greater detail below), the settlement was for \$1,600 and involves the dismissal of Plaintiffs' claim. A motion to approve compromise, or a motion to dismiss, as not yet been resolved in the adversarial complaint. In addition, the Court entered an order on July 19, 2019, granting a stipulation between Defendants and Pastora to dismiss Pastora from the cross-complaint.

Mann filed a motion on June 13, 2019, to dismiss the cross-complaint against Mann without leave to amend. Mann bases her argument on two main grounds. The first is that the settlement of the case between Plaintiffs and Defendants has removed the legal basis for the grounds for a claim of indemnification. This is because the settlement had removed any possibility for Defendants to actually be found liable for the claim, and contractual or implied indemnification requires a finding of liability. Second, the Plaintiff's complaint for a finding of nondischargeability was not an appropriate claim to base a third-party complaint on. Third, and on a related note, the requested relief sought is outside of the jurisdiction of the Court as a monetary judgment.

Defendants filed their opposition to Mann's motion to dismiss the cross-complaint on July 18, 2019. Defendants base their opposition on the grounds that, even if the case had been settled between Defendants and Plaintiffs, Defendants had suffered \$26,715.00 in damages from defending Plaintiffs' claim, encompassing \$1,600 from the settlement, and around \$25,115 in attorneys' fees and costs. They allege that the cross-claim had thus not been rendered moot by the settlement, as Defendants were seeking reimbursement from Mann for the damages she allegedly caused. Defendants also claim that the contract between Defendants and Mann included an attorneys' fees and costs provision, which would allow Defendants to seek the fees and costs incurred in pursuing their claim against Mann.

DISCUSSION

Under Civil Rule 12(b)(6), made applicable in adversary proceedings through Rule 7012, a bankruptcy court may dismiss a complaint if it fails to "state a claim upon which relief can be granted." In reviewing a Civil Rule 12(b)(6) motion, the trial court must accept as true all facts alleged in the complaint and draw all reasonable inferences in favor of the plaintiff. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir.

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2001). However, the trial court need not accept as true conclusory allegations in a complaint or legal characterizations cast in the form of factual allegations. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–56, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007); *Hartman v. Gilead Scis., Inc. (In re Gilead Scis. Sec. Litig.)*, 536 F.3d 1049, 1055 (9th Cir. 2008).

To avoid dismissal under Civil Rule 12(b)(6), a plaintiff must aver in the complaint "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, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting *Twombly*, 550 U.S. at 570, 127 S.Ct. 1955). It is axiomatic that a claim cannot be plausible when it has no legal basis. A dismissal under Civil Rule 12(b)(6) may be based either on the lack of a cognizable legal theory or on the absence of sufficient facts alleged under a cognizable legal theory. *Johnson v. Riverside Healthcare Sys.*, 534 F.3d 1116, 1121 (9th Cir.2008).

The Court will begin with Mann's arguments that Defendants' cross-complaint/third-party complaint against Mann lacks jurisdiction.

Defendants' primary claim against Mann rests on their request for a monetary judgment against Mann, and Plaintiffs also requested a monetary judgment in their complaint against Defendants. Mann argues that bankruptcy courts do not have the jurisdiction to enter monetary judgments in relation to complaints for nondischargeability. Circuit courts are split as to whether bankruptcy courts have the jurisdiction to enter monetary judgments as part of nondischargeability complaints. 4 COLLIER ON BANKRUPTCY ¶ 523.32 (Richard Levin and Henry Sommer eds., 16th ed.). However, the 9th Circuit is one of the circuits which has found that bankruptcy courts have this jurisdiction. *See In re Kennedy*, 108 F.3d 1015, 1018 (9th Cir. 1997). As such, the Court finds that it has the jurisdiction to hear a request for monetary judgment as part of an adversarial complaint based on a claim for nondischargeability.

Mann correctly argues that the matter before the Court isn't a cross-complaint, but rather is a third-party complaint, under the Federal Rules of Civil Procedure. *See* F.R.C.P. 14(a)(1) (stating that actions that fall under the grounds of a third-party complaint, including a defendant's complaint against a third party who may be liable for all or part of a claim against the defendant). Mann uses this to argue that it is improper for a third-party complaint to seek a monetary judgment when the complaint is attached to an adversarial proceeding in a bankruptcy court based on a complaint for nondischargeability. Mann cites to several cases from the 2nd, 3rd, and 10th Circuits in which third party complaints seeking monetary judgments were dismissed as improper when they stemmed from adversarial proceedings based on complaints for a finding of

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nondischargeability. However, the Court restates that, unlike the 2nd, 3rd, and 10th Circuits, the 9th Circuit does permit monetary judgments in relation to complaints for nondischargeability. *See In re Kennedy*, 108 F.3d at 1018. As such, the Court finds that it has the jurisdiction to hear complaints for monetary judgment in relation to adversarial proceedings based on a complaint for nondischargeability, including third-party complaints for monetary judgments.

Next, the Court will consider Mann's argument that the settling of the case between Plaintiffs and Defendants have rendered Defendants claim for indemnification against Mann moot. Mann's primary argument is that indemnification is dependent on liability, and the settling of the case has removed any potential chance for Defendants to be found liable. However, California law permits a settling party to seek indemnification from a third party for an equitable portion of a settlement. *C.f. Western Steamship Lines, Inc. v. San Pedro Peninsula Hospital*, 8 Cal. 4th 100, 118-9 (Cal. 1994) (reversing a trial court judgment granting a 30% indemnification of a settlement amount, on the grounds that the defendant had not independently proven the portion of the damages that were directly caused by the hospital. In other words, the appellate court found that the defendant could seek indemnification of a settlement with the plaintiff if the defendant could establish the indemnitor's independent liability). As such, Defendants have stated a claim for which relief can be granted by requesting that Mann indemnify Defendants for either a part, or the total, of the settlement agreement between Defendants and Plaintiff.

Next, the Court will consider whether Defendants have stated a claim for which relief may be granted for the recovery of the attorneys' fees and costs incurred by Defendants in defending against Plaintiffs' claim. Under Cal. Code Civ. P. § 1021.6, a party who prevails on a claim for implied indemnity may be awarded the attorneys' fees incurred in defending the underlying complaint if the court finds that: (1) the indemnitee had been required to act in the protection of their interest by defending an action by a third person which stemmed from the tort of the indemnitor; (2) the indemnitor was properly notified of the demand to provide the defense and did not avail itself of the opportunity to do so; and (3) that the trier of fact determined that the indemnitee was without fault in the principal case which is the basis for the action in indemnity, or that the indemnitee had a final judgment entered in their favor granting a summary judgment, a nonsuit, or a directed verdict.

The claim for relief by Defendants against Mann for attorneys' fees stems from their claim for implied indemnity against Mann. However, while the facts they have stated

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CONT... Douglas Edward Goodman

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may be sufficient to satisfy element (1), they are currently insufficient to satisfy the requirements of proper notification under element (2), and the settling of the claim between Defendants and Plaintiffs means that (3) is completely impossible, as a trier of fact will never determine whether Defendants were without fault, nor will there be a final judgment entered in Defendants' favor. As such, since Defendants cannot meet § 1021.6, it does not appear that they can state a claim for which relief can be granted against Mann in relation to the reimbursement of the attorneys' fees and expenses incurred defending against Plaintiffs' claim.

Finally, the Court will address Defendants' request for attorneys' fees and expenses related to the bringing of the third-party complaints against Mann. The Court finds that Defendants have stated a claim upon which relief may be granted.

As such, the Court finds that it has jurisdiction to hear the third-party complaint, and that the settlement between Plaintiffs and Defendants have not rendered the third-party complaint moot. The Court is thus inclined to deny Mann's motion to dismiss the third-party complaint in regard to the claim for indemnification for the \$1,600 in settlement proceeds paid by Defendants to Plaintiffs. In addition, the Court is also inclined to deny the motion to dismiss in regard to Defendants' request for attorneys' fees in relation to the third-party claim brought against Mann. However, the Court is inclined to dismiss with prejudice Defendants' claim against Mann for the attorneys' fees and expenses incurred as a result of Plaintiffs' claim against Defendants.

TENTATIVE RULING

8/1/2019

SERVICE: PROPER

OPPOSITION: YES

THE COURT IS INCLINED TO DENY MOVANT'S MOTION TO DISMISS WITHOUT LEAVE TO AMEND DEFENDANTS' THIRD PARTY COMPLAINT AS TO REQUESTS FOR RELIEF NUMBERS 1 AND 2, REGARDING THE TOTAL AND COMPLETE INDEMNITY FOR ANY JUDGMENT RENDERED AGAINST DEFENDANTS AND FOR JUDGMENT IN PROPORTIONATE SHARE FROM EACH CROSS-DEFENDANT. DENY IN REGARD TO THE COSTS AND EXPENSES,

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CONT... Douglas Edward Goodman

Chapter 13

INCLUDING REASONABLE ATTORNEYS' FEES, INCURRED IN BRINGING THE THIRD-PARTY COMPLAINT AGAINST MANN. GRANT IN REGARD TO THE COSTS AND EXPENSES INCURRED IN THE DEFENSE OF PLAINTIFFS' CLAIM AGAINST DEFENDANTS.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Movant(s):

Theresa Mann

Pro Se

Theresa Mann

Represented By
Andrew L Leff

Theresa Mann

Pro Se

Theresa Mann

Represented By
Andrew L Leff

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

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Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-11766 Hassan Mohamad Adib Yahya

Chapter 13

Adv#: 6:19-01084 SCHOOLSFIRST FEDERAL CREDIT UNION v. Yahya

#2.00 Status Conference RE: [1] Adversary case 6:19-ap-01084. Complaint by SCHOOLSFIRST FEDERAL CREDIT UNION against Hassan Mohamad Adib Yahya. false pretenses, false representation, actual fraud)) (Reza, Paul)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hassan Mohamad Adib Yahya	Represented By Todd L Turoci
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Defendant(s):

Hassan Mohamad Adib Yahya	Pro Se
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Plaintiff(s):

SCHOOLSFIRST FEDERAL	Represented By Paul V Reza
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Trustee(s):

Rod Danielson (TR)	Pro Se
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6:18-14277 Cesar Orozco

Chapter 13

#3.00 Debtor's Motion to vacate dismissal order and reinstate Chapter 13 Case pursuant to F.R.C.P. 9023 and 11 U.S.C. Section 105

EH ____

Docket 48

Tentative Ruling:

8/1/2019

BACKGROUND

On May 21, 2008, Cesar Orozco ("Debtor") filed a voluntary Chapter 13 petition. On August 9, 2018, his Chapter 13 Plan was confirmed. On May 7, 2019, the Chapter 13 Trustee ("Trustee") filed a motion to dismiss Debtor's case for delinquency. On June 6, 2019, Trustee's motion to dismiss was granted. On June 28, 2019, Debtor filed a motion to vacate dismissal.

Debtor's case was dismissed due to a two-month delinquency in plan payments. Debtor's counsel alleges that Debtor fell behind because of a misunderstanding that the submission of a payment in January had made Debtor current on payments. Instead, Debtor was one month short, as a new payment had come due in late January. Debtor's counsel alleges that he attempted to reach Debtor prior to the hearing in June to address this problem, but was unable to do so due to Debtor having recently changed his cellphone number. Debtor now asserts that he has the funds to become current through the July plan payment.

Trustee filed a conditional acceptance of Debtor's motion to vacate dismissal on July 1, 2019. Trustee's conditions are that: 1- Debtor turns over \$1,784 to become current on plan payments, and 2- that Debtor submits his 2018 state and federal tax returns and refunds to the Trustee.

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CONT... Cesar Orozco

Chapter 13

DISCUSSION

Debtor bases his argument for vacating dismissal on F.R.C.P. 60(b)(1) and (6), mistake and "any other reason justifying relief from the operation of the judgment," as well as the Court's inherent equitable powers under 11 U.S.C. § 105(a), and the error rule under F.R.C.P. 61 which permits the setting aside of a judgment if to not do so otherwise would be inconsistent with substantial justice.

The problem with Debtor's arguments is that: 1- the Court did not make an error under FRCP 61, the Debtor did, and 2- Debtor's counsel did not make an error under FRCP 60(b)(1). Debtor was serially delinquent on plan payments within a few months of the confirmation of his plan, and this was the core root of the dismissal, not neglect or mistake by his counsel or the Court.

However, in light of Trustee's conditional acceptance of Debtor's motion, the Court is inclined to find grounds to vacate its dismissal of Debtor's case under the "any other reason" language of F.R.C.P. 60(b)(6) and its inherent equitable powers under 11 U.S.C. § 105(a). If Debtor has the funds to become current on plan payments, and is prepared to turn over his tax returns and refund, then the Court finds that vacating dismissal would not cause an undue prejudicial impact to his creditors.

TENTATIVE RULING

8/1/2019

SERVICE: PROPER

OPPOSITION: NONE

THE COURT IS INCLINED TO GRANT THIS MOTION UNDER FRCP 60(B)(6) AND 11 U.S.C. § 105.

APPEARANCES REQUIRED.

Party Information

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CONT... Cesar Orozco

Chapter 13

Debtor(s):

Cesar Orozco

Represented By
Paul Y Lee

Movant(s):

Cesar Orozco

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-10084 Sandra Luz Torres

Chapter 13

#4.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sandra Luz Torres

Represented By
Jason B Cruz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-11281 Nadia Michelle Lipscomb

Chapter 13

#5.00 CONT Confirmation of Chapter 13 Plan

From: 5/9/19, 6/27/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nadia Michelle Lipscomb

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-13796 Charles Anthony Anunciacion and Lisa Rhea Anunciacion Chapter 13

#6.00 Motion RE: Objection to Claim No 3-1 by Claimant U.S. Bank Trust, N.A. As Trustee for LSF9 Master Participation Trust

EH ____

Docket 52

***** VACATED *** REASON: CONTINUED TO 9/5/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Anthony Anunciacion

Represented By
Jeffrey B Smith

Joint Debtor(s):

Lisa Rhea Anunciacion

Represented By
Jeffrey B Smith

Movant(s):

Charles Anthony Anunciacion

Represented By
Jeffrey B Smith

Lisa Rhea Anunciacion

Represented By
Jeffrey B Smith

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-12699 Luis Enrique Chavez

Chapter 13

#7.00 CONT Confirmation of Chapter 13 Plan

From: 6/27/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Enrique Chavez

Represented By
Giovanni Orantes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-12755 Salvador Caridad Rodriguez

Chapter 13

#8.00 CONT Confirmation of Chapter 13 Plan

From: 6/27/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Salvador Caridad Rodriguez

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-13123 Susana Olga Corona

Chapter 13

#9.00 Debtor's Motion to Disallow Claims No 2-1 filed by PYOD, LLC

Also #10

EH ____

Docket 27

Tentative Ruling:

8/1/2019

NO OPPOSITION

BACKGROUND:

On April 12, 2019, Susana O Corona ("Debtors") filed her Chapter 13 petition for bankruptcy.

On June 18, 2019, PYOD ("Creditor") filed a claim ("Claim 2-1") for \$3,816.39 in outstanding retail debt stemming from moneys owed to Levitz Furniture, with a last payment date of February 23, 1999. Debtor argues that that the claim is barred by the statute of limitations. Creditor has failed to oppose Debtor's objection, and the deadline for objection has passed.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

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CONT... Susana Olga Corona

Chapter 13

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable.

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CONT... Susana Olga Corona

Chapter 13

See e.g., Guaranty Trust Co. v. United States, 304 U.S. 126 (1938).

Claim 2-1 is based on retail debt stemming from the purchase of furniture. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of February 23, 1999. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 2-1 is unenforceable.

Furthermore, the Court deems failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-(1)(h).

TENTATIVE RULING

8/1/2019

Service: Proper

Opposition: None

The Court is inclined to GRANT the motion, DISALLOWING Claim 2-1 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Susana Olga Corona

Represented By
Christopher J Langley

Movant(s):

Susana Olga Corona

Represented By
Christopher J Langley
Christopher J Langley

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CONT... Susana Olga Corona

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-13123 Susana Olga Corona

Chapter 13

#10.00 Debtor's Motion to Disallow Claims No 3-1 filed by PYOD, LLC

Also #9

EH ____

Docket 28

Tentative Ruling:

8/1/2019

NO OPPOSITION

BACKGROUND:

On April 12, 2019, Susana O Corona ("Debtors") filed her Chapter 13 petition for bankruptcy.

On June 18, 2019, PYOD ("Creditor") filed a claim ("Claim 3-1") for \$4,497.00 in outstanding retail debt stemming from moneys owed to Sears, with a last payment date of August 4, 1999. Debtor argues that that the claim is barred by the statute of limitations. Creditor has failed to oppose Debtor's objection, and the deadline for objection has passed.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

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CONT... Susana Olga Corona

Chapter 13

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable.

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CONT... Susana Olga Corona

Chapter 13

See e.g., Guaranty Trust Co. v. United States, 304 U.S. 126 (1938).

Claim 3-1 is based on retail debt originally owed to Sears. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last transaction date of August 4, 1999. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 3-1 is unenforceable.

Furthermore, the Court deems failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-(1)(h).

TENTATIVE RULING

8/1/2019

Service: Proper

Opposition: None

The Court is inclined to GRANT the motion, DISALLOWING Claim 3-1 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Susana Olga Corona

Represented By
Christopher J Langley

Movant(s):

Susana Olga Corona

Represented By
Christopher J Langley
Christopher J Langley

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CONT... Susana Olga Corona

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-13600 Ronnie L Minnifield

Chapter 13

#11.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ronnie L Minnifield

Represented By
John Habashy

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-13629 Rogelio Marquez and Rosa M. Perea de Marquez

Chapter 13

#12.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rogelio Marquez

Represented By
Curtis R Aijala

Joint Debtor(s):

Rosa M. Perea de Marquez

Represented By
Curtis R Aijala

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-13643 Timothy Potter

Chapter 13

#13.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Timothy Potter

Represented By
Natalie A Alvarado

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-13651 Juan Manuel Robles

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Manuel Robles

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-13684 Ryan Sollazzo and Reanna Sollazzo

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Sollazzo

Represented By
Paul Y Lee

Joint Debtor(s):

Reanna Sollazzo

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-13691 Alicia M Smith

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alicia M Smith

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-13706 Salem Eid Massoud

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Salem Eid Massoud

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-13757 Vernita Goodwin

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernita Goodwin

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13760 J Jesus Hernandez Flores and Flora Hernandez

Chapter 13

#19.00 Motion for Setting Property Value

Also #20

EH__

Docket 18

Tentative Ruling:

8/1/2019

BACKGROUND

On April 30, 2019, Jesus and Flora Hernandez Flores ("Debtors") filed a voluntary petition for Chapter 13 bankruptcy. On June 5, 2019, Debtors filed a motion to value their 2016 Toyota RAV4 (the "Property"). The Property is currently subject to a \$22,732 lien held by Altura Credit Union ("Creditor"). The motion did not contain any evidence of the Property's value. On July 12, 2019, Debtors filed a supplemental to their motion, containing a Carmax appraisal of the Property, which establishes the amount for which Carmax would purchase the Property.

Creditor filed an opposition on July 30, 2019. In it, Creditor claims that Debtors' motion to value the property is in violation of 11 U.S.C. § 1325(a)(9), which does not permit the reduction of a secured claim stemming from a purchase money security interest incurred within a 910-day period prior to the petition date for the purchase of a motor vehicle acquired for a Debtors' personal use.

DISCUSSION

First, the Court begins by noting that Debtors' first motion did not contain any evidence to support their claimed valuation of the Property. Instead, Creditor only received 19 days' notice of such an integral part of Debtors' motion through the supplemental filed on July 12, 2019. While not fatal, the Court still finds this to be improper notice of the motion.

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CONT... J Jesus Hernandez Flores and Flora Hernandez

Chapter 13

As to the merits, one of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

However, a Chapter 13 plan cannot be confirmed with a § 506(a) claim bifurcation under § 1325(a)(5) if the claim being bifurcated is: (1)- a purchase money security interest, (2) incurred for the purchase of a motor vehicle, (3) acquired for the Debtors' personal use, (4) that was taken out 910 days prior to the Chapter 13 petition. Here, Creditor is the holder of a purchase money security interest for a vehicle acquired for the Debtors' personal use which was taken out 584 days prior to the petition date, as the retail installment contract was entered into by Debtors on September 23, 2017. As such, claim bifurcation is not available within this case for the Property. Even if it was, Debtors also failed to submit proper evidence of the Property's value.

Assuming, arguendo, that § 1325(a)(5) did not apply, the Ninth Circuit has not presently established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtors have submitted a Carmax appraisal of the vehicle, which gave an appraisal offer of \$12,500. This appears to completely miss the goal of valuation. Value under *Morales* is meant to establish what a retail merchant would *charge* when selling the Property, not what a retail merchant would *purchase* the Property for. Debtors have provided the purchase price, which will almost certainly be substantially lower than the sale price, cutting against the Creditor's interests.

TENTATIVE RULING

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

CONT... J Jesus Hernandez Flores and Flora Hernandez

Chapter 13

8/1/2019

SERVICE: PROPER

OPPOSITION: YES

The Court is inclined to DENY Debtors' motion to value the Property due to it being in contravention of the restrictions on claim bifurcation under § 1325(a)(5).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

J Jesus Hernandez Flores

Represented By
Jenny L Doling

Joint Debtor(s):

Flora Hernandez

Represented By
Jenny L Doling

Movant(s):

J Jesus Hernandez Flores

Represented By
Jenny L Doling
Jenny L Doling
Jenny L Doling

Flora Hernandez

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13760 J Jesus Hernandez Flores and Flora Hernandez

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

Also #19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

J Jesus Hernandez Flores

Represented By
Jenny L Doling

Joint Debtor(s):

Flora Hernandez

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13761 M Evan Parker-Calderon and Elton Parker-Calderon

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

M Evan Parker-Calderon

Represented By
Summer M Shaw
Jenny L Doling

Joint Debtor(s):

Elton Parker-Calderon

Represented By
Summer M Shaw
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13768 Daniel Ray Love and Fatin Badawi Love

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Ray Love

Represented By
Raj T Wadhvani

Joint Debtor(s):

Fatin Badawi Love

Represented By
Raj T Wadhvani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13806 Gonzalo Najera and Wendy Lomeli Najera

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gonzalo Najera

Represented By
Sundee M Teeple

Joint Debtor(s):

Wendy Lomeli Najera

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13816 Briana Farquharson

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 7/18/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Briana Farquharson

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13838 Princis B Scott

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Princis B Scott

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13854 Janet Adams

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 5/21/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Janet Adams

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13855 Noel Guerrero Avalos and Veronica Cellular De Avalos

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Noel Guerrero Avalos

Represented By
Todd L Turoci

Joint Debtor(s):

Veronica Cellular De Avalos

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13874 Marisol Smith

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marisol Smith

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13876 Christopher Steven Henthorn and Christine Lynne Apodaca

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Steven Henthorn

Represented By
Seema N Sood

Joint Debtor(s):

Christine Lynne Apodaca

Represented By
Seema N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13908 John Johnson, III

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 7/18/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Johnson III

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13911 Casildo Guerra

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Casildo Guerra

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13913 Ernesto Sandoval

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ernesto Sandoval

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13931 Juan E Lopez and Maria L Lopez

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan E Lopez

Represented By
Anthony Wilaras

Joint Debtor(s):

Maria L Lopez

Represented By
Anthony Wilaras

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13939 Armando Richard Moreno

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Armando Richard Moreno

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13942 Steven Eric Armil and Karen Ann Savel

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 5/28/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Steven Eric Armil	Pro Se
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Joint Debtor(s):

Karen Ann Savel	Pro Se
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Trustee(s):

Rod Danielson (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13986 Eva Monroe

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 5/28/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eva Monroe

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-13994 Oscar Carrasco De Dios and Sofia P. De Dios

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada

Joint Debtor(s):

Sofia P. De Dios

Represented By
Glenn Ward Calsada

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14025 Patricia Ann Cook

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Ann Cook

Represented By
Brad Weil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14029 Cynthia Molina Gomez

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cynthia Molina Gomez

Represented By
Joshua L Sternberg

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14067 Manuel Gurrola and Susan Gurrola

Chapter 7

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
7/23/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Manuel Gurrola

Represented By
Inez Tinoco-Vaca

Joint Debtor(s):

Susan Gurrola

Represented By
Inez Tinoco-Vaca

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14078 Raymond Edward Reeley

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 5/28/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Raymond Edward Reeley

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14136 Jose Omar Zapata

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Omar Zapata

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14140 Sandra Kay Ramirez

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/13/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sandra Kay Ramirez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14141 Rafael Gonzalez and Sonia Cardenas

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Joint Debtor(s):

Sonia Cardenas

Represented By
Henry D Paloci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14142 Marcelino Carrillo

Chapter 13

#45.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/13/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marcelino Carrillo

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14155 Michael Palumbo

Chapter 13

#46.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 6/20/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Palumbo

Represented By
David L Nelson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14173 Francine McGwire

Chapter 13

#47.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Francine McGwire

Pro Se

Trustee(s):

Rod (MH) Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14183 Darryle Barker

Chapter 13

#48.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Darryle Barker

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14197 Robert J Tafoya

Chapter 13

#49.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert J Tafoya

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14207 Matthew James Razukas

Chapter 13

#50.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 6/14/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Matthew James Razukas

Represented By
Shawn Anthony Doan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14268 Christopher Monroe and Aysheh Spicer

Chapter 13

#51.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Monroe

Represented By
Paul Y Lee

Joint Debtor(s):

Aysheh Spicer

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14335 Bobby G Hairston and Marilyn D Hairston

Chapter 13

#52.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 7/31/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bobby G Hairston

Represented By
Kevin Tang

Joint Debtor(s):

Marilyn D Hairston

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14338 Jamie Marie Saucedo

Chapter 13

#53.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jamie Marie Saucedo

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14341 Jacques Vashonne Powers

Chapter 13

#54.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/7/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jacques Vashonne Powers

Represented By
Edgar P Lombera

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14353 Pablo Vidal, Jr

Chapter 13

#55.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/7/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pablo Vidal Jr

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14370 Germaine Denice Carr

Chapter 13

#56.00 Debtor's Motion for Order Determining Value of Collateral with Partnership
Federal Credit Union re: 2016 Buick Enclave Convenience

Also #57

EH ___

Docket 16

Tentative Ruling:

BACKGROUND

On May 20, 2019, Germaine Carr ("Debtor") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2016 Buick Enclave (the "Property"). The Partnership Federal Credit Union ("Creditor") holds a security interest in the Property in the lien amount of \$30,564.05.

Debtor filed this motion to value the Property on July 2, 2019. She seeks a value of \$20,025, and has offered in support a NADAguides used car report clean retail valuation.

DISCUSSION

Debtor has properly submitted a Kelley Blue Book clean retail valuation for the vehicle. As such, the Court is inclined to find that Debtor has properly supported their claimed valuation of \$20,025 under the requirements of *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008). However, it is unclear how the unsecured value of Creditor's claim would be \$20,422, as requested by Debtor, since Debtor states that the current lien value is \$30,564.05. This is backed by the account statement for the period ending April, 2019, which states that the account balance on the Property is \$30,564.05.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

CONT... Germaine Denice Carr

Chapter 13

TENTATIVE RULING

8/1/2019

SERVICE: PROPER

OPPOSITION: NONE

The Court is inclined to GRANT Debtor's motion to value their 2016 Buick Enclave at \$20,025. Debtor is to explain to the Court what the resulting unsecured claim should be.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Germaine Denice Carr

Represented By
Michael E Clark

Movant(s):

Germaine Denice Carr

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14370 Germaine Denice Carr

Chapter 13

#57.00 Confirmation of Chapter 13 Plan

Also #56

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Germaine Denice Carr

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14384 Sheila M. Malone

Chapter 13

#58.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sheila M. Malone

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14387 Jeffrey Allan Cohn

Chapter 13

#59.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey Allan Cohn

Represented By
Stephen L Burton

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14407 Jason Benjamin Marlow and Linda Sue Marlow

Chapter 13

#60.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jason Benjamin Marlow

Represented By
Julie J Villalobos

Joint Debtor(s):

Linda Sue Marlow

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14413 Jackqueline D Mitchell

Chapter 13

#61.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jackqueline D Mitchell

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14425 La Quetta Delaine Bush Simmons

Chapter 13

#62.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

La Quetta Delaine Bush Simmons

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14426 Lorena Valencia Gonzalez

Chapter 13

#63.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lorena Valencia Gonzalez

Represented By
David A Akintimoye

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14462 MaryLou Campo De Leon

Chapter 13

#64.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

MaryLou Campo De Leon

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14467 David Patrick Hale

Chapter 13

#65.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Patrick Hale

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:00 AM

6:19-14476 Beth Alanna Russell

Chapter 7

#66.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7
6/18/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Beth Alanna Russell

Represented By
Stephen K Moran

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:15-14687 Vernia Jean Mosby

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH ____

Docket 125

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernia Jean Mosby

Represented By
Nancy Korompis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:15-17561 Cresencio Ramirez Ramirez and Maria Olga Ramirez

Chapter 13

#68.00 CONT Trustee's Motion to Dismiss Case

From: 5/23/19, 6/6/19, 7/11/19

EH__

Docket 153

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cresencio Ramirez Ramirez

Represented By
John F Brady

Joint Debtor(s):

Maria Olga Ramirez

Represented By
John F Brady

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:15-22033 Shyla L. Montgomery

Chapter 13

#69.00 Trustee's Motion to Dismiss Case

EH ____

Docket 111

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shyla L. Montgomery

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:16-15119 Rodolfo Domingo Plado and Esmenia Rivera Plado

Chapter 13

#70.00 Trustee's Motion to Dismiss Case

EH__

Docket 69

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rodolfo Domingo Plado

Represented By
Dana Travis

Joint Debtor(s):

Esmenia Rivera Plado

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:16-18082 Joseph John Vargas and Lydia Vargas

Chapter 13

#71.00 Trustee's Motion to Dismiss Case

EH__

Docket 130

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph John Vargas

Represented By
Dana Travis

Joint Debtor(s):

Lydia Vargas

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:17-11167 Victor Thomas Lawton

Chapter 13

#72.00 Trustee's Motion to Dismiss Case

EH__

Docket 62

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Victor Thomas Lawton

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:17-12011 Joshua Lawrence Ferguson and Wendy Mae Ferguson

Chapter 13

#73.00 CONT Trustee's Motion to Dismiss Case

From: 6/27/19

EH__

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Lawrence Ferguson

Represented By
Stephen H Darrow

Joint Debtor(s):

Wendy Mae Ferguson

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:17-13583 William J Schaefer and Jennifer L. Schaefer

Chapter 13

#74.00 Trustee's Motion to Dismiss Case

EH__

Docket 60

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William J Schaefer

Represented By
Patricia M Ashcraft

Joint Debtor(s):

Jennifer L. Schaefer

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:17-17612 Jose Guadalupe Sandoval

Chapter 13

#75.00 CONT Trustee's Motion to Dismiss Case

From: 7/11/19

EH ____

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Guadalupe Sandoval

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:17-18482 Roberto Garcia Garcia and Maria Martha Garcia

Chapter 13

#76.00 Trustee's Motion to Dismiss Case

EH ____

Docket 70

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roberto Garcia Garcia

Represented By
Michael E Clark
Barry E Borowitz

Joint Debtor(s):

Maria Martha Garcia

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:17-18720 Patricia Morales

Chapter 13

#77.00 Trustee's Motion to Dismiss Case

EH__

Docket 77

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/31/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Morales

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:17-19614 Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

#78.00 CONT Trustee's Motion to Dismiss Case

From: 7/11/19

EH ____

Docket 97

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/16/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Joint Debtor(s):

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-10456 David Allen Rose, Jr. and Karen Sue Rose

Chapter 13

#79.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Allen Rose Jr.

Represented By
Dana Travis

Joint Debtor(s):

Karen Sue Rose

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-11652 Gwendolyn Priscilla Saunders

Chapter 13

#80.00 CONT Trustee's Motion to Dismiss Case

From: 7/11/19

EH ____

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gwendolyn Priscilla Saunders

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-12022 Maribel M Vasquez

Chapter 13

#81.00 CONT Trustee's Motion to Dismiss Case

From: 7/11/19

EH ____

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maribel M Vasquez

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-13172 Michelle Cadena Quinn

Chapter 13

#82.00 CONT Trustee's Motion to Dismiss Case

From: 5/9/19, 6/6/19, 6/27/19

EH__

Docket 65

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Cadena Quinn

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-13906 Ruby Lee Frazier

Chapter 13

#83.00 Trustee's Motion to Dismiss Case

EH ____

Docket 70

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ruby Lee Frazier

Represented By
Michael D Franco

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-15220 Peter Ruiz

Chapter 13

#84.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Peter Ruiz

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-17597 David Meisland

Chapter 13

#85.00 Trustee's Motion to Dismiss Case

EH ____

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Meisland

Represented By
Nima S Vokshori

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-17927 Ertun Reshat and Hale Reshat

Chapter 13

#86.00 Trustee's Motion to Dismiss Case

EH ____

Docket 33

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/31/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ertun Reshat

Represented By
April E Roberts

Joint Debtor(s):

Hale Reshat

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-19494 Rachel Ann Sullivan

Chapter 13

#87.00 Trustee's Motion to Dismiss Case

EH ____

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rachel Ann Sullivan

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-19696 Corinthia A. Williams

Chapter 13

#88.00 Trustee's Motion to Dismiss Case

EH ____

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Corinthia A. Williams

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-20296 Daniel Lee Crump

Chapter 13

#89.00 CONT Trustee's Motion to Dismiss Case

From: 7/11/19

EH__

Docket 37

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/22/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Lee Crump

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:19-10669 Michael Anthony Delgado, III

Chapter 13

#90.00 Trustee's Motion to Dismiss Case

EH ____

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Anthony Delgado III

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-17676 Patricia Ellen Bond-Gomez

Chapter 13

#91.00 Trustee's Motion to Dismiss Case

EH__

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Ellen Bond-Gomez

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

11:01 AM

6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#92.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

12:00 PM

6:18-13057 Desert Ice Castle, LLC

Chapter 7

#93.00 CONT Motion for Order Approving Compromise of Controversy Between Chapter 7 Trustee, Debtor, Anthony Yue Ming Liu, Ice Castle, Inc. and Magic Ice, LLC Pursuant to Federal Rule of Bankruptcy Procedure 9019

From: 7/31/19, 7/30/19

EH ____

Docket 91

Tentative Ruling:

BACKGROUND

Debtor Desert Ice Castle ("Debtor") filed a voluntary Ch. 7 petition on April 13, 2018. Creditor Andrzej Luczynski ("Creditor") filed two claims against Debtor, one for \$3,200,000 related to the breach of joint venture between the two, and one for anticipated judgment from state court litigation for \$1,218,135.54. Creditor's associated company, Z&M Trading, Inc., also filed a claim against Debtor for attorney fees to be derived from the anticipated state court judgment.

On January 31, 2019, the Ch. 7 Trustee filed an adversary proceeding against Anthony Ming Liu ("Liu"), the principal of Debtor, for alleged pre-petition transfers from Debtor to Liu. Liu filed his own bankruptcy petition. On June 25, 2019, Trustee reached an allegedly global agreement with Liu, Z&M, Creditor, and Desert Ice Castle, which will apply in both this, and Liu's case. The claimed primary terms of the agreement is the payment of \$60,000 from Liu to Trustee, combined with a dismissal of the adversarial proceeding with prejudice, and the withdrawal of Creditor's proofs of claim and Trustee's proof of claim in Liu's bankruptcy case.

However, the actual settlement agreement provided has no signature from Creditor, and the agreement terms do not state that Creditor will engage in a mutual release of claims between him and Debtor, as alleged by Trustee, or that Creditor will withdraw his proofs of claims.

On July 3, 2019, Trustee filed a motion to approve the compromise under Rule 9019.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

12:00 PM

CONT... Desert Ice Castle, LLC

Chapter 7

On July 25, 2019, the matter was advanced to July 30, 2019, at 2:00 p.m.

DISCUSSION

FED. R. BANKR. P. Rule 9019 provides that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

The Ninth Circuit Court of Appeals have previously outlined the factors to be considered in approving a compromise pursuant to Rule 9019: (1) the probability of success in the litigation; (2) the difficulties to be encountered in the matter of collection; (3) the complexity, expense, inconvenience and delay of litigation; and (4) the interest of creditors with deference to their reasonable views. *See In re A&C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). The listed factors assist the Court in determining "the fairness, reasonableness and adequacy of a proposed settlement agreement." *Id.*

Creditor's claims are the vast bulk of pre-petition claims against Debtor, and are also the root of the adversarial proceeding between Trustee and Debtor. In addition, Trustee also claims that the agreement settles the controversy between Creditor and Debtor. While Creditor is not a party to the settlement agreement, the Court notes that the agreement is expressly conditioned on the withdrawal of Creditor's proofs of claim. Otherwise, the Court finds that Trustee has sufficiently addressed the *A&C Properties* standard.

TENTATIVE RULING

7/30/2019

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, August 1, 2019

Hearing Room 303

12:00 PM

CONT... Desert Ice Castle, LLC

Chapter 7

Service: Proper

Opposition: None

The Court is inclined to GRANT Trustee's motion to approve compromise.

APPEARANCES WAIVED. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Desert Ice Castle, LLC

Represented By
Paul M Stoddard

Movant(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

12:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#94.00 CONT Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Causes of Action .

MOVANT: ANDRZEJ LUCZYNSKI AND Z&M TRADING, INC.

From: 4/16/19, 4/30/19, 5/21/19, 6/11/19, 6/25/19, 7/16/19, 7/30/19

Also #95 - #99

EH__

Docket 38

Tentative Ruling:

4/30/2019

Service: Proper
Opposition: Yes.

On February 19, 2019, Anthony Yue Ming Liu ("Debtor") filed a Chapter 11 voluntary petition. On Schedule F, Debtor listed Andrzej Luczynski ("Movant") as the holder of an unsecured claim of \$1,380,000 relating to a civil lawsuit.

On March 12, 2019, Movant filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for tortious exclusion of joint venturer, breach of fiduciary duty, breach of contract, and wrongful eviction. A state court hearing on Debtor's objections to the tentative decision and proposed judgment had been scheduled for February 20, 2019, but was ultimately postponed due to the instant bankruptcy filing. It appears from the contents of the motion that Movant is only requesting to have the state court enter judgment, thereby liquidating Movant's claim.

On April 2, 2019, Debtor filed his opposition. The crux of Debtor's opposition is that the relief from the automatic stay is unnecessary because Movant's claim has been

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, August 1, 2019

Hearing Room 303

12:00 PM

CONT...

Anthony Yue Ming Liu

Chapter 11

effectively liquidated. Debtor notes that "[t]he only issue remaining is a determination of any costs and attorney's fees, which Debtor has attempted to review for reasonableness in hopes that the parties could avoid unnecessary litigation and expenses regarding the same." [Dkt. No. 49, pg. 4, lines 10-12]. On April 9, 2019, Movant filed a reply, effectively arguing that Debtor's opposition does not contain a legal basis upon which relief from stay could be denied.

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

- (1) Whether the relief will result in a partial or 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 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 good or proceeds in question; (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties; (8) whether the judgment claim arising from the foreign action is subject to equitable subordination; (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). *In Roger*, the Court further stated:

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit

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litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all.

Here, the *Curtis* factors weigh in favor of granting relief from the automatic stay. First, the relief requested would result in a complete resolution of the issues. Debtor's argument that relief from stay is not necessary to resolve the issue, because the issue could be resolved through the claim objection process in bankruptcy court, is not persuasive to the Court because it does not directly address the first *Curtis* factor and because, presumably, the state court is in a better position to assess the reasonableness of the fees and costs incurred in its own proceedings. Likewise, the second factor weighs in favor of the relief requested because the entry of a judgment in state court will not interfere with the administration of the bankruptcy estate. Debtor has not raised a plausible argument contending otherwise. A choice by Debtor to possibly incur attorney fees arguing the amount of Movant's fees and costs incurred in the state court proceeding does not constitute interference with the administration of the bankruptcy estate. Finally, the Court finds that the tenth through twelfth *Curtis* factors weigh in favor of granting relief from stay, because the state court proceeding progressed to the point where it was ready for trial, and the state court is in a better position to judge the reasonableness of the fees and costs incurred in its own proceeding.

The Court finds that the third through ninth *Curtis* factors are largely irrelevant in this situation and do not materially affect the Court's analysis. Additionally, the Court is not inclined to find that the instant bankruptcy was filed in bad faith. Movant's only argument made to support a bad faith finding is that the instant case was filed on the eve of the anticipated state court judgment. Noting that Debtor scheduled Movant's claim and does not appear to be attempting to undermine the state court proceeding, the Court cannot conclude that Debtor is acting on bad faith simply because he is attempting to satisfy Movant's claim through a Chapter 11 plan of reorganization.

The Court is inclined to GRANT request for relief pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a) stay. GRANT request under ¶ 2. DENY request for relief under ¶ 7 for lack of cause shown.

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APPEARANCES REQUIRED

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Courtesy NEF

Represented By
Dawn M Coulson
Paul M Stoddard
Mark W Edelstein

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Chapter 11

#95.00 CONT Debtor's Motion to Dismiss Bankruptcy Case

From: 7/30/19

Also #94 - #99

EH____

Docket 97

Tentative Ruling:

7/30/19

BACKGROUND

On February 19, 2019, Anthony Liu ("Debtor") filed a Chapter 11 voluntary petition. On June 17, 2019, the Court approved a stipulation between UST and Debtor which provided for waiver of discharge pursuant to 11 U.S.C. § 1141(d)(4).

The claims bar date for non-governmental claims was May 29, 2019. Seven claims were filed in the instant case. The four primary creditors of Debtor are: (1) Andrzej Luczynski ("Luczynski") (\$2,790,321.07); (2) Trustee for the bankruptcy estate of Desert Ice Castle, LLC ("Trustee") (\$1,863,672.10)¹; (3) Z&M Trading, Inc. ("Z&M") (\$662,453.70); and (4) the Law Offices of Mark W. Edelstein APC ("Edelstein") (\$63,620.96).

On July 9, 2019, Debtor filed three motions to approve compromise, reflecting settlements reached with all primary creditors, specifically (a) Luczynski and Z&M; (b) Trustee; and (c) Edelstein. Debtor has indicated that he will pay off, in full, the

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only two claims not subject to the settlement, which total \$8,270.87.

Also on July 9, 2019, Debtor filed a motion to dismiss the Chapter 11 case. Trustee has filed a condition non-opposition, asking that: (a) the settlement payment be made prior to the lodging of a dismissal order; and (b) Luczynski withdraw the proofs of claims filed in the bankruptcy case of Desert Ice Castle, LLC.

DISCUSSION

11 U.S.C. § 1112(b)(1) states:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

Section 1112(b)(4) provides a non-exhaustive list of examples of cause. While Debtor is a party in interest pursuant to § 1109(b), the examples of cause outlined in § 1112(b)(4) are addressing to a non-debtor party. When a Chapter 11 debtor satisfies all claims against the estate without the use of a plan, however, the creditors no longer have any interest in the bankruptcy case moving forward. Additionally, in this case, Debtor has waived discharge, so, likewise, the Debtor would appear to have no interest in the case moving forward. Therefore, the Court is inclined to GRANT the motion, DISMISSING the case on the conditions set forth in Debtor's motion and Trustee's conditional non-opposition, and subject to the issues raised in the Court's tentative ruling relating to the compromise motions.

APPEARANCES REQUIRED.

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Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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Chapter 11

#96.00 CONT Debtor's Motion to Approve Compromise with Mark Edelstein

From: 7/30/19

Also #94 - #99

EH____

Docket 95

Tentative Ruling:

7/30/19

BACKGROUND

On February 19, 2019, Anthony Liu ("Debtor") filed a Chapter 11 voluntary petition. On June 17, 2019, the Court approved a stipulation between UST and Debtor which provided for waiver of discharge pursuant to 11 U.S.C. § 1141(d)(4).

The claims bar date for non-governmental claims was May 29, 2019. Seven claims were filed in the instant case. The four primary creditors of Debtor are: (1) Andrzej Luczynski ("Luczynski") (\$2,790,321.07); (2) Trustee for the bankruptcy estate of Desert Ice Castle, LLC ("Trustee") (\$1,863,672.10)¹; (3) Z&M Trading, Inc. ("Z&M") (\$662,453.70); and (4) the Law Offices of Mark W. Edelstein APC ("Edelstein") (\$63,620.96).

On July 9, 2019, Debtor filed three motions to approve compromise, reflecting settlements reached with (a) Luczynski and Z&M; (b) Trustee; and (c) Edelstein. The Court did not receive any timely opposition to the compromise motions.

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The pertinent facts of the three compromises are as follows:

- 1) Debtor to pay Lucynski and Z&M \$3,156,621.53, with 7% interest, as follows: (a) \$250,000 within one week of the effective date of settlement; (b) \$250,000 within sixty days of first payment; (c) \$250,000 within sixty days of second payment; and (d) \$58,000/month thereafter until satisfying the total amount. The payment obligations of Debtor are to be secured by a deed of trust against certain real property of Debtor.
- 2) Debtor to pay Trustee \$60,000 within one week of the effective date of the settlement.
- 3) Debtor to pay Edelstein \$45,000 within one week of the effective date of the settlement.

The settlement resolves all claims against Debtor, and contains a mutual release of all claims, and a dismissal of all pending actions. Debtor has indicated that he will pay off, in full, the only two claims not subject to the settlement, which total \$8,270.87.

DISCUSSION

I. Legal Standard for Approving Compromise

Pursuant to 11 U.S.C. § 1107(a), Debtor has all the rights and duties of a trustee. Rule 9019(a) authorizes the bankruptcy court to approve a compromise or settlement on the trustee's motion and after notice and a hearing. The bankruptcy court must consider all "factors relevant to a full and fair assessment of the wisdom of the proposed compromise." *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968). In other words, the bankruptcy court must find that the settlement is "fair and equitable" in order to approve it. *Martin v. Kane (In re A & C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

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In conducting this inquiry, the bankruptcy court must consider the following factors:

(a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Id.

The bankruptcy court enjoys broad discretion in approving a compromise because it "is uniquely situated to consider the equities and reasonableness [of it]" *United States v. Alaska Nat'l Bank (In re Walsh Construction, Inc.)*, 669 F.2d 1325, 1328 (9th Cir. 1982). As stated in *A & C Props.*:

The purpose of a compromise agreement is to allow the trustee and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims. The law favors compromise and not litigation for its own sake, and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision must be affirmed.

Id. (citations omitted).

The factual situation here is rather unique because Debtor has reached settlements with all of the significant creditors in this bankruptcy case, while asserting that he will pay off the two small creditors in full. Therefore, all creditors: (a) will be paid off in full; or (b) have expressly consented to the treatment of their claim. As a result, the final A&C factor, the interests of creditors, which in this situation is the predominant concern when assessing the fairness and reasonableness of the settlement, strongly, probably conclusively weighs in favor of settlement. As noted by Debtor, the second A&C factor is inapplicable here because Debtor is not trying to collect from the other parties to the settlement. And the first and third factors would appear to also weigh in favor of settlement, given that Debtor was faced with a tentative ruling indicating that the Court was inclined to rule against him, and because the amount of the claims at issue would likely cause significant litigation.

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There is one technical issue that remains, applicable to both the three compromise motions, as well as the concurrently scheduled motion to dismiss the Chapter 11 case. Debtor, by seeking a dismissal of the underlying bankruptcy cases and by settling with the three primary creditors, is, in effect, either proposing a *sub rosa* plan or seeking a structured dismissal (or both); such a proposal cannot violate the Code's priority scheme. *See, e.g., In re Cont'l Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986) ("§ 363 does not authorize a debtor and the bankruptcy court 'to short circuit the requirements of a reorganization plan by establishing the terms of the plan *sub rosa* in connection' with a proposed transaction."); *see also Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 984 (2017) ("The priority system applicable to those distributions has long been considered fundamental to the Bankruptcy Code's operation. The importance of the priority system leads us to expect more than simple statutory silence if, and when, Congress were to intend a major departure. Put somewhat more directly, we would expect to see some affirmative indication of intent if Congress actually meant to make structured dismissals a backdoor means to achieve the exact kind of nonconsensual priority-violating final distributions that the Code prohibits in Chapter 7 liquidations and Chapter 11 plans.").

Debtor seems to have anticipated this issue, noting in all three compromise motions and the motion to dismiss, that he would pay off the two non-settling creditors who filed proofs of claims, and also identifying the various scheduled creditors who did not file proofs of claims. There are, however, two remaining issues that have not been resolved. First, FED. R. BANKR. P. Rule 3003(b)(1) provides that, in Chapter 11 cases, a creditor whose claim is scheduled by Debtor, generally need not file a proof of claim, but may rely on the amount admitted by Debtor instead. Debtor's declaration in the motion to dismiss addresses this to some degree, but it is not sufficient to overcome the prohibitions against paying outside of the priority scheme. Second, the claims bar date for non-governmental claims is August 19, 2019, and, therefore, has not yet expired, potentially allowing for the filing of additional priority claims.

TENTATIVE RULING

Debtor to address the two issues raised in the preceding paragraph, and, specifically, whether and how remaining creditors should be paid.

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APPEARANCES REQUIRED.

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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#97.00 CONT Debtor's Motion to Approve Compromise with Andrzej Luczynski and Z&M Trading, Inc.

From: 7/30/19

Also #94 - #99

EH___

Docket 96

Tentative Ruling:

7/30/19

BACKGROUND

On February 19, 2019, Anthony Liu ("Debtor") filed a Chapter 11 voluntary petition. On June 17, 2019, the Court approved a stipulation between UST and Debtor which provided for waiver of discharge pursuant to 11 U.S.C. § 1141(d)(4).

The claims bar date for non-governmental claims was May 29, 2019. Seven claims were filed in the instant case. The four primary creditors of Debtor are: (1) Andrzej Luczynski ("Luczynski") (\$2,790,321.07); (2) Trustee for the bankruptcy estate of Desert Ice Castle, LLC ("Trustee") (\$1,863,672.10)¹; (3) Z&M Trading, Inc. ("Z&M") (\$662,453.70); and (4) the Law Offices of Mark W. Edelstein APC ("Edelstein") (\$63,620.96).

On July 9, 2019, Debtor filed three motions to approve compromise, reflecting settlements reached with (a) Luczynski and Z&M; (b) Trustee; and (c) Edelstein. The

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Court did not receive any timely opposition to the compromise motions.

The pertinent facts of the three compromises are as follows:

- 1) Debtor to pay Lucynski and Z&M \$3,156,621.53, with 7% interest, as follows: (a) \$250,000 within one week of the effective date of settlement; (b) \$250,000 within sixty days of first payment; (c) \$250,000 within sixty days of second payment; and (d) \$58,000/month thereafter until satisfying the total amount. The payment obligations of Debtor are to be secured by a deed of trust against certain real property of Debtor.
- 2) Debtor to pay Trustee \$60,000 within one week of the effective date of the settlement.
- 3) Debtor to pay Edelstein \$45,000 within one week of the effective date of the settlement.

The settlement resolves all claims against Debtor, and contains a mutual release of all claims, and a dismissal of all pending actions. Debtor has indicated that he will pay off, in full, the only two claims not subject to the settlement, which total \$8,270.87.

DISCUSSION

I. Legal Standard for Approving Compromise

Pursuant to 11 U.S.C. § 1107(a), Debtor has all the rights and duties of a trustee. Rule 9019(a) authorizes the bankruptcy court to approve a compromise or settlement on the trustee's motion and after notice and a hearing. The bankruptcy court must consider all "factors relevant to a full and fair assessment of the wisdom of the proposed compromise." *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968). In other words, the bankruptcy court must find that the settlement is "fair and equitable" in order to approve it. *Martin v. Kane (In re*

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Chapter 11

A & C Props.), 784 F.2d 1377, 1381 (9th Cir. 1986).

In conducting this inquiry, the bankruptcy court must consider the following factors:

(a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Id.

The bankruptcy court enjoys broad discretion in approving a compromise because it "is uniquely situated to consider the equities and reasonableness [of it]" *United States v. Alaska Nat'l Bank (In re Walsh Construction, Inc.)*, 669 F.2d 1325, 1328 (9th Cir. 1982). As stated in *A & C Props.*:

The purpose of a compromise agreement is to allow the trustee and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims. The law favors compromise and not litigation for its own sake, and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision must be affirmed.

Id. (citations omitted).

The factual situation here is rather unique because Debtor has reached settlements with all of the significant creditors in this bankruptcy case, while asserting that he will pay off the two small creditors in full. Therefore, all creditors: (a) will be paid off in full; or (b) have expressly consented to the treatment of their claim. As a result, the final A&C factor, the interests of creditors, which in this situation is the predominant concern when assessing the fairness and reasonableness of the settlement, strongly, probably conclusively weighs in favor of settlement. As noted by Debtor, the second A&C factor is inapplicable here because Debtor is not trying to collect from the other parties to the settlement. And the first and third factors would appear to also weigh in favor of settlement, given that Debtor was faced with a tentative ruling indicating that the Court was inclined to rule against him, and because the amount of the claims at issue would likely cause significant litigation.

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Chapter 11

There is one technical issue that remains, applicable to both the three compromise motions, as well as the concurrently scheduled motion to dismiss the Chapter 11 case. Debtor, by seeking a dismissal of the underlying bankruptcy cases and by settling with the three primary creditors, is, in effect, either proposing a *sub rosa* plan or seeking a structured dismissal (or both); such a proposal cannot violate the Code's priority scheme. *See, e.g., In re Cont'l Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986) ("§ 363 does not authorize a debtor and the bankruptcy court 'to short circuit the requirements of a reorganization plan by establishing the terms of the plan *sub rosa* in connection' with a proposed transaction."); *see also Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 984 (2017) ("The priority system applicable to those distributions has long been considered fundamental to the Bankruptcy Code's operation. The importance of the priority system leads us to expect more than simple statutory silence if, and when, Congress were to intend a major departure. Put somewhat more directly, we would expect to see some affirmative indication of intent if Congress actually meant to make structured dismissals a backdoor means to achieve the exact kind of nonconsensual priority-violating final distributions that the Code prohibits in Chapter 7 liquidations and Chapter 11 plans.").

Debtor seems to have anticipated this issue, noting in all three compromise motions and the motion to dismiss, that he would pay off the two non-settling creditors who filed proofs of claims, and also identifying the various scheduled creditors who did not file proofs of claims. There are, however, two remaining issues that have not been resolved. First, FED. R. BANKR. P. Rule 3003(b)(1) provides that, in Chapter 11 cases, a creditor whose claim is scheduled by Debtor, generally need not file a proof of claim, but may rely on the amount admitted by Debtor instead. Debtor's declaration in the motion to dismiss addresses this to some degree, but it is not sufficient to overcome the prohibitions against paying outside of the priority scheme. Second, the claims bar date for non-governmental claims is August 19, 2019, and, therefore, has not yet expired, potentially allowing for the filing of additional priority claims.

TENTATIVE RULING

Debtor to address the two issues raised in the preceding paragraph, and, specifically, whether and how remaining creditors should be paid.

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Chapter 11

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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Chapter 11

#98.00 CONT Debtor's Motion to Approve Compromise with Trustee for Chapter 7 Estate of Desert Ice Castle, LLC

From: 7/30/19

Also #94 - #99

EH __

Docket 94

Tentative Ruling:

7/30/19

BACKGROUND

On February 19, 2019, Anthony Liu ("Debtor") filed a Chapter 11 voluntary petition. On June 17, 2019, the Court approved a stipulation between UST and Debtor which provided for waiver of discharge pursuant to 11 U.S.C. § 1141(d)(4).

The claims bar date for non-governmental claims was May 29, 2019. Seven claims were filed in the instant case. The four primary creditors of Debtor are: (1) Andrzej Luczynski ("Luczynski") (\$2,790,321.07); (2) Trustee for the bankruptcy estate of Desert Ice Castle, LLC ("Trustee") (\$1,863,672.10)¹; (3) Z&M Trading, Inc. ("Z&M") (\$662,453.70); and (4) the Law Offices of Mark W. Edelstein APC ("Edelstein") (\$63,620.96).

On July 9, 2019, Debtor filed three motions to approve compromise, reflecting settlements reached with (a) Luczynski and Z&M; (b) Trustee; and (c) Edelstein. The

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Chapter 11

Court did not receive any timely opposition to the compromise motions.

The pertinent facts of the three compromises are as follows:

- 1) Debtor to pay Lucynski and Z&M \$3,156,621.53, with 7% interest, as follows: (a) \$250,000 within one week of the effective date of settlement; (b) \$250,000 within sixty days of first payment; (c) \$250,000 within sixty days of second payment; and (d) \$58,000/month thereafter until satisfying the total amount. The payment obligations of Debtor are to be secured by a deed of trust against certain real property of Debtor.
- 2) Debtor to pay Trustee \$60,000 within one week of the effective date of the settlement.
- 3) Debtor to pay Edelstein \$45,000 within one week of the effective date of the settlement.

The settlement resolves all claims against Debtor, and contains a mutual release of all claims, and a dismissal of all pending actions. Debtor has indicated that he will pay off, in full, the only two claims not subject to the settlement, which total \$8,270.87.

DISCUSSION

I. Legal Standard for Approving Compromise

Pursuant to 11 U.S.C. § 1107(a), Debtor has all the rights and duties of a trustee. Rule 9019(a) authorizes the bankruptcy court to approve a compromise or settlement on the trustee's motion and after notice and a hearing. The bankruptcy court must consider all "factors relevant to a full and fair assessment of the wisdom of the proposed compromise." *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968). In other words, the bankruptcy court must find that the settlement is "fair and equitable" in order to approve it. *Martin v. Kane (In re*

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Chapter 11

A & C Props.), 784 F.2d 1377, 1381 (9th Cir. 1986).

In conducting this inquiry, the bankruptcy court must consider the following factors:

(a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Id.

The bankruptcy court enjoys broad discretion in approving a compromise because it "is uniquely situated to consider the equities and reasonableness [of it]" *United States v. Alaska Nat'l Bank (In re Walsh Construction, Inc.)*, 669 F.2d 1325, 1328 (9th Cir. 1982). As stated in *A & C Props.*:

The purpose of a compromise agreement is to allow the trustee and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims. The law favors compromise and not litigation for its own sake, and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision must be affirmed.

Id. (citations omitted).

The factual situation here is rather unique because Debtor has reached settlements with all of the significant creditors in this bankruptcy case, while asserting that he will pay off the two small creditors in full. Therefore, all creditors: (a) will be paid off in full; or (b) have expressly consented to the treatment of their claim. As a result, the final A&C factor, the interests of creditors, which in this situation is the predominant concern when assessing the fairness and reasonableness of the settlement, strongly, probably conclusively weighs in favor of settlement. As noted by Debtor, the second A&C factor is inapplicable here because Debtor is not trying to collect from the other parties to the settlement. And the first and third factors would appear to also weigh in favor of settlement, given that Debtor was faced with a tentative ruling indicating that the Court was inclined to rule against him, and because the amount of the claims at issue would likely cause significant litigation.

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CONT... Anthony Yue Ming Liu

Chapter 11

There is one technical issue that remains, applicable to both the three compromise motions, as well as the concurrently scheduled motion to dismiss the Chapter 11 case. Debtor, by seeking a dismissal of the underlying bankruptcy cases and by settling with the three primary creditors, is, in effect, either proposing a *sub rosa* plan or seeking a structured dismissal (or both); such a proposal cannot violate the Code's priority scheme. *See, e.g., In re Cont'l Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986) ("§ 363 does not authorize a debtor and the bankruptcy court 'to short circuit the requirements of a reorganization plan by establishing the terms of the plan *sub rosa* in connection' with a proposed transaction."); *see also Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 984 (2017) ("The priority system applicable to those distributions has long been considered fundamental to the Bankruptcy Code's operation. The importance of the priority system leads us to expect more than simple statutory silence if, and when, Congress were to intend a major departure. Put somewhat more directly, we would expect to see some affirmative indication of intent if Congress actually meant to make structured dismissals a backdoor means to achieve the exact kind of nonconsensual priority-violating final distributions that the Code prohibits in Chapter 7 liquidations and Chapter 11 plans.").

Debtor seems to have anticipated this issue, noting in all three compromise motions and the motion to dismiss, that he would pay off the two non-settling creditors who filed proofs of claims, and also identifying the various scheduled creditors who did not file proofs of claims. There are, however, two remaining issues that have not been resolved. First, FED. R. BANKR. P. Rule 3003(b)(1) provides that, in Chapter 11 cases, a creditor whose claim is scheduled by Debtor, generally need not file a proof of claim, but may rely on the amount admitted by Debtor instead. Debtor's declaration in the motion to dismiss addresses this to some degree, but it is not sufficient to overcome the prohibitions against paying outside of the priority scheme. Second, the claims bar date for non-governmental claims is August 19, 2019, and, therefore, has not yet expired, potentially allowing for the filing of additional priority claims.

TENTATIVE RULING

Debtor to address the two issues raised in the preceding paragraph, and, specifically, whether and how remaining creditors should be paid.

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 1, 2019

Hearing Room 303

12:00 PM

CONT... Anthony Yue Ming Liu

Chapter 11

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

Movant(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 1, 2019

Hearing Room 303

12:00 PM

6:19-11267 Anthony Yue Ming Liu

Chapter 11

#99.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 3/26/19; 6/25/19, 7/16/19, 7/30/19

Also #94 - #98

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony Yue Ming Liu

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, August 7, 2019

Hearing Room 303

1:00 PM

6:19-15398 Narnina Nicole Delores Riggins

Chapter 7

#1.00 Debtor's motion for violation of the stay

EH__

Docket 0

Party Information

Debtor(s):

Narnina Nicole Delores Riggins Pro Se

Trustee(s):

Todd A. Frealy (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, August 14, 2019

Hearing Room 303

11:00 AM

6:15-21418 James Lloyd Walker

Chapter 7

#1.00 Emergency Motion For Amended Order: (1) Approving The Sale Of Real Property Of The Estate Pursuant To 11 U.S.C. § 363(b)(1); (2) Approving Overbid Procedure As Proposed Herein; (3) Approving Payment Of Broker(s) Commission; (4) Determination That The Proposed Buyer Is A Good Faith Purchaser Under 11 U.S.C. § 363(m); And (5) Waiver Of The Stay Under FRBP 6004(h)

EH__

Docket 194

Party Information

Debtor(s):

James Lloyd Walker

Represented By
Andrew Edward Smyth
William J Smyth

Trustee(s):

Robert Whitmore (TR)

Represented By
Caroline Djang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, August 14, 2019

Hearing Room 303

1:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#2.00 Motion To Accept Contribution Funds To Pay The Secured Second Trust Deed Holder In Full For The Property Located At 3095 Ocelot Cir, Corona, Ca. 92882 Under Bankruptcy Code Section 105(A)

EH__

Docket 150

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:13-28666 Mildred Goodridge Crawford

Chapter 13

#1.00 Trustee's Motion to Dismiss Case

EH ____

Docket 244

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Party Information

Debtor(s):

Mildred Goodridge Crawford

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-12287 Roger A Zorn, Jr. and Lisa J Zorn

Chapter 13

#2.00 Trustee's Motion to Dismiss Case

EH ____

Docket 117

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19**

Party Information

Debtor(s):

Roger A Zorn Jr.

Represented By
Julie J Villalobos

Joint Debtor(s):

Lisa J Zorn

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-13327 Diane Marie Harris

Chapter 13

#3.00 Trustee's Motion to Dismiss Case

EH__

Docket 102

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/29/19

Party Information

Debtor(s):

Diane Marie Harris

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

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-13510 Carmen Lucya Mendez

Chapter 13

#4.00 Trustee's Motion to Dismiss Case

EH__

Docket 109

Party Information

Debtor(s):

Carmen Lucya Mendez

Represented By
Sara E Razavi
Matthew D Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-14309 Sean Alan Bruce

Chapter 13

#5.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Sean Alan Bruce

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-15246 David J Macias and Martha Macias

Chapter 13

#6.00 Trustee's Motion to Dismiss Case

EH__

Docket 79

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

David J Macias

Represented By
Marjorie M Johnson

Joint Debtor(s):

Martha Macias

Represented By
Marjorie M Johnson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-16730 Juanita M Kawakami

Chapter 13

#7.00 Trustee's Motion to Dismiss Case

EH__

Docket 91

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19**

Party Information

Debtor(s):

Juanita M Kawakami

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-17491 Rosalie Estella Crouch

Chapter 13

#8.00 Trustee's Motion to Dismiss Case

EH__

Docket 108

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Rosalie Estella Crouch

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-18156 Jose Luis Gutierrez and Patricia Gutierrez

Chapter 13

#9.00 Trustee's Motion to Dismiss Case

EH__

Docket 74

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/25/19**

Party Information

Debtor(s):

Jose Luis Gutierrez

Represented By
Kelly Warren

Joint Debtor(s):

Patricia Gutierrez

Represented By
Kelly Warren

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-18589 Igor Sokolov and Galina Sokolova

Chapter 13

#10.00 Trustee's Motion to Dismiss Case

EH__

Docket 139

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19**

Party Information

Debtor(s):

Igor Sokolov

Represented By
Alla Tenina

Joint Debtor(s):

Galina Sokolova

Represented By
Alla Tenina

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-19520 Jeffrey B Jordan

Chapter 13

#11.00 Trustee's Motion to Dismiss Case

EH__

Docket 63

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Jeffrey B Jordan

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-20348 Frederick Rudy Deveau and Wendy Jo Deveau

Chapter 13

#12.00 Trustee's Motion to Dismiss Case

EH__

Docket 83

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/22/19

Party Information

Debtor(s):

Frederick Rudy Deveau

Represented By
Christopher J Langley

Joint Debtor(s):

Wendy Jo Deveau

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-21377 Adam Max Thewes and Kristine Ann Thewes

Chapter 13

#13.00 Trustee's Motion to Dismiss Case

EH__

Docket 85

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19**

Party Information

Debtor(s):

Adam Max Thewes

Represented By
Steven A Alpert

Joint Debtor(s):

Kristine Ann Thewes

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-21454 Matilde Lopez and Rene Zamora

Chapter 13

#14.00 Trustee's Motion to Dismiss Case

EH__

Docket 69

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Matilde Lopez

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Rene Zamora

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-22951 Wilfred David Pascual

Chapter 13

#15.00 Trustee's Motion to Dismiss Case

EH__

Docket 79

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Wilfred David Pascual

Represented By
Lisa H Robinson
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-23150 Vivian Munson

Chapter 13

#16.00 Trustee's Motion to Dismiss Case

EH__

Docket 259

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Vivian Munson

Represented By
Amanda G Billyard
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-23319 Lamar Surpell Bell

Chapter 13

#17.00 Trustee's Motion to Dismiss Case

EH__

Docket 58

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Lamar Surpell Bell

Represented By
D Justin Harelik

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 304 Calendar

Monday, August 19, 2019

Hearing Room 304

1:00 PM

6:14-24327 Jesus Cardiel Castro and Deborah Jean Castro

Chapter 13

#18.00 Trustee's Motion to Dismiss Case

EH__

Docket 64

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Jesus Cardiel Castro

Represented By
James P Doan

Joint Debtor(s):

Deborah Jean Castro

Represented By
James P Doan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:14-24888 Jesus Padilla Simental

Chapter 13

#19.00 Trustee's Motion to Dismiss Case

EH__

Docket 100

Party Information

Debtor(s):

Jesus Padilla Simental

Represented By
Bryn C Deb

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-10440 Kevin Clark Schumpert and Idella Lynn Vanlue-Schumpert

Chapter 13

#20.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19**

Party Information

Debtor(s):

Kevin Clark Schumpert

Represented By
Sunita N Sood

Joint Debtor(s):

Idella Lynn Vanlue-Schumpert

Represented By
Sunita N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-13218 Ramiro J Cruz and Norma Idalia Cruz

Chapter 13

#21.00 Trustee's Motion to Dismiss Case

EH__

Docket 141

Party Information

Debtor(s):

Ramiro J Cruz

Represented By
Summer M Shaw
Jenny L Doling

Joint Debtor(s):

Norma Idalia Cruz

Represented By
Summer M Shaw
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-13535 Gilbert Alfred Torrez, Sr. and Emily Torrez

Chapter 13

#22.00 Trustee's Motion to Dismiss Case

EH__

Docket 89

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19**

Party Information

Debtor(s):

Gilbert Alfred Torrez Sr.

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Emily Torrez

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-15353 Maria Graciana Castro

Chapter 13

#23.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Maria Graciana Castro

Represented By
William E Windham

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-15522 Scott Allan Oswald and Lisa Frances Oswald

Chapter 13

#24.00 Trustee's Motion to Dismiss Case

EH__

Docket 102

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Party Information

Debtor(s):

Scott Allan Oswald

Represented By
Richard L Barrett

Joint Debtor(s):

Lisa Frances Oswald

Represented By
Richard L Barrett

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-16079 Tracy Lynne Crooks

Chapter 13

#25.00 Trustee's Motion to Dismiss Case

EH__

Docket 98

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Tracy Lynne Crooks

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-16189 Nikea N Jackson

Chapter 13

#26.00 Trustee's Motion to Dismiss Case

EH__

Docket 70

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Nikea N Jackson

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-17922 Homer Wilson and Evelyn Wilson

Chapter 13

#27.00 Trustee's Motion to Dismiss Case

EH__

Docket 122

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Homer Wilson

Represented By
Leonard J Cravens

Joint Debtor(s):

Evelyn Wilson

Represented By
Leonard J Cravens

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-17937 Joe Roger Montes

Chapter 13

#28.00 Trustee's Motion to Dismiss Case

EH__

Docket 64

Party Information

Debtor(s):

Joe Roger Montes

Represented By
Stephen R Wade
W. Derek May

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-18212 Michael Joseph Slowinski

Chapter 13

#29.00 Trustee's Motion to Dismiss Case

EH__

Docket 73

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/31/19

Party Information

Debtor(s):

Michael Joseph Slowinski

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-19338 Jesus Aguilar and Maria G Aguilar

Chapter 13

#30.00 Trustee's Motion to Dismiss Case

EH__

Docket 75

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19**

Party Information

Debtor(s):

Jesus Aguilar

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Maria G Aguilar

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-20387 Marion Schmidt

Chapter 13

#31.00 Trustee's Motion to Dismiss Case

EH__

Docket 64

Party Information

Debtor(s):

Marion Schmidt

Represented By
Daniel C Sever

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:15-22392 Donald Leroy Woodruff

Chapter 13

#32.00 Trustee's Motion to Dismiss Case

EH__

Docket 120

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Donald Leroy Woodruff

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-10385 Adolfo Gonzalez and Angelica Gonzalez

Chapter 13

#33.00 Trustee's Motion to Dismiss Case

EH__

Docket 99

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19**

Party Information

Debtor(s):

Adolfo Gonzalez

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Angelica Gonzalez

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-11655 Lynn Anne Rellins

Chapter 13

#34.00 Trustee's Motion to Dismiss Case

EH__

Docket 73

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Lynn Anne Rellins

Represented By
Javier H Castillo

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-11877 Allan Martin Borgen

Chapter 13

#35.00 Trustee's Motion to Dismiss Case

EH__

Docket 79

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Allan Martin Borgen

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-13030 Richard Hill Lindsay and Laura Lee Lindsay

Chapter 13

#36.00 Trustee's Motion to Dismiss Case

EH__

Docket 128

Party Information

Debtor(s):

Richard Hill Lindsay

Represented By
Emilia N McAfee

Joint Debtor(s):

Laura Lee Lindsay

Represented By
Emilia N McAfee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-13404 Alberto Plascencia and Martina Plascencia

Chapter 13

#37.00 Trustee's Motion to Dismiss Case

EH__

Docket 79

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19**

Party Information

Debtor(s):

Alberto Plascencia

Represented By
Paul Y Lee

Joint Debtor(s):

Martina Plascencia

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-13872 Kimberly Ann Bowen

Chapter 13

#38.00 Trustee's Motion to Dismiss Case

EH__

Docket 94

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Kimberly Ann Bowen

Represented By
Gregory M Shanfeld

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-14169 Sally Michelle Greene

Chapter 13

#39.00 Trustee's Motion to Dismiss Case

EH__

Docket 67

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19**

Party Information

Debtor(s):

Sally Michelle Greene

Represented By
Sunita N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-14457 Milorad Mileusnic and Sonja Mileusnic

Chapter 13

#40.00 Trustee's Motion to Dismiss Case

EH__

Docket 86

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Milorad Mileusnic

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Sonja Mileusnic

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-14476 Juan Rene Fullen, Jr.

Chapter 13

#41.00 Trustee's Motion to Dismiss Case

EH__

Docket 91

Party Information

Debtor(s):

Juan Rene Fullen Jr.

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-15432 Ramona Hofman

Chapter 13

#42.00 Trustee's Motion to Dismiss Case

EH__

Docket 64

Party Information

Debtor(s):

Ramona Hofman

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-15959 Feliciano Julian De Vera and Pacita Delacruz De Vera

Chapter 13

#43.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Feliciano Julian De Vera

Represented By
Lawrence B Yang

Joint Debtor(s):

Pacita Delacruz De Vera

Represented By
Lawrence B Yang

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-16719 Warren Thomas Derry

Chapter 13

#44.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Party Information

Debtor(s):

Warren Thomas Derry

Represented By
Christopher C Barsness

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-16856 Tony Apodaca and Lydia Apodaca

Chapter 13

#45.00 Trustee's Motion to Dismiss Case

EH__

Docket 51

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/19/19**

Party Information

Debtor(s):

Tony Apodaca

Represented By
Julie J Villalobos

Joint Debtor(s):

Lydia Apodaca

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-16946 Elliott Howard Blue, Jr and Yvette Blue

Chapter 13

#46.00 Trustee's Motion to Dismiss Case

EH__

Docket 90

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/29/19

Party Information

Debtor(s):

Elliott Howard Blue Jr

Represented By
Michael E Clark
Barry E Borowitz

Joint Debtor(s):

Yvette Blue

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-17340 Mario Maria Delgado and Mireya Cano

Chapter 13

#47.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/22/19**

Party Information

Debtor(s):

Mario Maria Delgado

Represented By
Christopher J Langley

Joint Debtor(s):

Mireya Cano

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-17411 Charlotte N Apacible

Chapter 13

#48.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Charlotte N Apacible

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-17736 Willie Elvin Chambers and Marlene Shirley Chambers

Chapter 13

#49.00 Trustee's Motion to Dismiss Case

EH__

Docket 82

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19**

Party Information

Debtor(s):

Willie Elvin Chambers

Represented By
Heather J Canning
Barry E Borowitz

Joint Debtor(s):

Marlene Shirley Chambers

Represented By
Heather J Canning
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-17765 Mary Jones

Chapter 13

#50.00 Trustee's Motion to Dismiss Case

EH__

Docket 58

Party Information

Debtor(s):

Mary Jones

Represented By
Matthew D Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-17902 Patricia Daniels

Chapter 13

#51.00 Trustee's Motion to Dismiss Case

EH__

Docket 83

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Patricia Daniels

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-18430 Isaias Melo and Rosa Melo

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH__

Docket 90

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Isaias Melo

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Rosa Melo

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-18529 Ricardo Carranza and Teresa D. Sotelo

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 47

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Ricardo Carranza

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Joint Debtor(s):

Teresa D. Sotelo

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-18621 John Wesley Wilson, Jr. and Michelle Janet Wilson

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH__

Docket 67

Party Information

Debtor(s):

John Wesley Wilson Jr.

Represented By
Julie J Villalobos

Joint Debtor(s):

Michelle Janet Wilson

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-18990 John D Castro, Jr and Jennifer Manda Castro

Chapter 13

#55.00 Trustee's Motion to Dismiss Case

EH__

Docket 100

Party Information

Debtor(s):

John D Castro Jr

Represented By
Chris A Mullen

Joint Debtor(s):

Jennifer Manda Castro

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-19396 Pamela Lynn King

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 60

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Pamela Lynn King

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-20132 Maynor Obdulio Cruz and Monica Ivonne Villeda Lopez

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Maynor Obdulio Cruz

Represented By
Sunita N Sood

Joint Debtor(s):

Monica Ivonne Villeda Lopez

Represented By
Sunita N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-20163 Sandra M. Hankins

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 82

Party Information

Debtor(s):

Sandra M. Hankins

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-20860 Sara R Cuevas

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 49

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/29/19

Party Information

Debtor(s):

Sara R Cuevas

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-10414 Felipe Morales

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19**

Party Information

Debtor(s):

Felipe Morales

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-10944 Manuel J. Sotelo

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH__

Docket 34

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Party Information

Debtor(s):

Manuel J. Sotelo

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-11131 Bruce Howard Ruggles and Ann Marie Ruggles

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH__

Docket 104

Party Information

Debtor(s):

Bruce Howard Ruggles

Represented By
John F Brady

Joint Debtor(s):

Ann Marie Ruggles

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-11167 Victor Thomas Lawton

Chapter 13

#63.00 Trustee's Motion to Dismiss Case

EH__

Docket 65

Party Information

Debtor(s):

Victor Thomas Lawton

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-11177 Gary Wayne Turner and Wanda Renay Turner

Chapter 13

#64.00 Trustee's Motion to Dismiss Case

EH__

Docket 49

Party Information

Debtor(s):

Gary Wayne Turner

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Wanda Renay Turner

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-11412 John Edward Maynes, Jr. and Marcella Christina Maynes

Chapter 13

#65.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

John Edward Maynes Jr.

Represented By
Cynthia A Dunning

Joint Debtor(s):

Marcella Christina Maynes

Represented By
Cynthia A Dunning

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-12758 Luis A Jovel

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH__

Docket 68

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/1/19

Party Information

Debtor(s):

Luis A Jovel

Represented By
Manfred Schroer

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-13069 Katrina Mojarro Ruiz

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/31/19

Party Information

Debtor(s):

Katrina Mojarro Ruiz

Represented By
Nancy Korompis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-13089 Marie Cooper and Albert Cooper

Chapter 13

#68.00 Trustee's Motion to Dismiss Case

EH__

Docket 62

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Marie Cooper

Represented By
Amanda G Billyard
Andy C Warshaw

Joint Debtor(s):

Albert Cooper

Represented By
Amanda G Billyard
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-13107 Angel Benavidez

Chapter 13

#69.00 Trustee's Motion to Dismiss Case

EH__

Docket 43

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Angel Benavidez

Represented By
William P Mullins

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-13165 Richard Ortiz and Dolores Ortiz

Chapter 13

#70.00 Trustee's Motion to Dismiss Case

EH__

Docket 54

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Richard Ortiz

Represented By
Elena Steers

Joint Debtor(s):

Dolores Ortiz

Represented By
Elena Steers

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-13529 Mark R. Smith

Chapter 13

#71.00 Trustee's Motion to Dismiss Case

EH__

Docket 29

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Mark R. Smith

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-13719 Sam Venero

Chapter 13

#72.00 Trustee's Motion to Dismiss Case

EH__

Docket 61

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/22/19

Party Information

Debtor(s):

Sam Venero

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-13729 Paula Rosales

Chapter 13

#73.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

Party Information

Debtor(s):

Paula Rosales

Represented By
William Radcliffe

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-13820 Guadalupe Espinoza

Chapter 13

#74.00 Trustee's Motion to Dismiss Case

EH__

Docket 49

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Guadalupe Espinoza

Represented By
Edwing F Keller

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-14789 Sadia Sohail

Chapter 13

#75.00 Trustee's Motion to Dismiss Case

EH__

Docket 83

Party Information

Debtor(s):

Sadia Sohail

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-14790 Ernesto Ayon Lopez and Dolores Millan Sanchez

Chapter 13

#76.00 Trustee's Motion to Dismiss Case

EH__

Docket 58

Party Information

Debtor(s):

Ernesto Ayon Lopez

Represented By
James Geoffrey Beirne

Joint Debtor(s):

Dolores Millan Sanchez

Represented By
James Geoffrey Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-14909 Louis Lee Brown, III and Teri Claudette Brown

Chapter 13

#77.00 Trustee's Motion to Dismiss Case .

EH__

Docket 28

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Louis Lee Brown III

Represented By
Jenny L Doling

Joint Debtor(s):

Teri Claudette Brown

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-15122 Keith F Keating

Chapter 13

#78.00 Trustee's Motion to Dismiss Case

EH__

Docket 60

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Keith F Keating

Represented By
Sundee M Teeple
Craig K Streed

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-15660 Guillermina Perez

Chapter 13

#79.00 Trustee's Motion to Dismiss Case

EH__

Docket 54

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Guillermina Perez

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-15730 James Whitby and Patricia Lineweaver

Chapter 13

#80.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/23/19

Party Information

Debtor(s):

James Whitby

Represented By
Christopher Hewitt

Joint Debtor(s):

Patricia Lineweaver

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-15772 Annette Leshon Rudd

Chapter 13

#81.00 Trustee's Motion to Dismiss Case

EH__

Docket 82

Party Information

Debtor(s):

Annette Leshon Rudd

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-16114 Allan Omar Ramos

Chapter 13

#82.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Allan Omar Ramos

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-16249 Ruben Quintero Palafox, Jr.

Chapter 13

#83.00 Trustee's Motion to Dismiss Case

EH__

Docket 39

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19**

Party Information

Debtor(s):

Ruben Quintero Palafox Jr.

Represented By
Yoon O Ham

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-16295 Coe Lamoureux and Julie Lamoureux

Chapter 13

#84.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Coe Lamoureux

Represented By
W. Derek May

Joint Debtor(s):

Julie Lamoureux

Represented By
W. Derek May

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-16409 Jesse Norman Dofelmire and Roucelle Frias Dofelmire

Chapter 13

#85.00 Trustee's Motion to Dismiss Case

EH__

Docket 70

Party Information

Debtor(s):

Jesse Norman Dofelmire

Represented By
Carey C Pickford

Joint Debtor(s):

Roucelle Frias Dofelmire

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-16609 Efrain De La Torre and Natalie Elizabeth Lopez

Chapter 13

#86.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/30/19**

Party Information

Debtor(s):

Efrain De La Torre

Represented By
Dana Travis

Joint Debtor(s):

Natalie Elizabeth Lopez

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-17009 Angel Felix Ruiz and Gladis Del Rosario Ruiz

Chapter 13

#87.00 Trustee's Motion to Dismiss Case

EH__

Docket 24

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/29/19

Party Information

Debtor(s):

Angel Felix Ruiz

Represented By
Edward G Topolski

Joint Debtor(s):

Gladis Del Rosario Ruiz

Represented By
Edward G Topolski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-17402 Thomas Lee Abercrombie and Rebecca Anne Abercrombie

Chapter 13

#88.00 Trustee's Motion to Dismiss Case

EH__

Docket 103

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19**

Party Information

Debtor(s):

Thomas Lee Abercrombie

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Rebecca Anne Abercrombie

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-17531 Harvey Everett Mosely and Jean Ann Mosely

Chapter 13

#89.00 Trustee's Motion to Dismiss Case

EH__

Docket 56

Party Information

Debtor(s):

Harvey Everett Mosely

Represented By
Paul Y Lee

Joint Debtor(s):

Jean Ann Mosely

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-17612 Jose Guadalupe Sandoval

Chapter 13

#90.00 Trustee's Motion to Dismiss Case

EH__

Docket 45

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/16/19

Party Information

Debtor(s):

Jose Guadalupe Sandoval

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-17942 Viorel Bucur

Chapter 13

#91.00 Trustee's Motion to Dismiss Case

EH__

Docket 93

Party Information

Debtor(s):

Viorel Bucur

Represented By
Michael Jay Berger

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-18030 Francisco Gabriel Cabrera and Connie Marie Cabrera

Chapter 13

#92.00 Trustee's Motion to Dismiss Case

EH__

Docket 43

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Francisco Gabriel Cabrera

Represented By
Michael E Clark

Joint Debtor(s):

Connie Marie Cabrera

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-18542 Carolyn Joyce Brooks

Chapter 13

#93.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Carolyn Joyce Brooks

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-18669 Hector Rene Flores, Jr. and Mayra Cecilia Canchola

Chapter 13

#94.00 Trustee's Motion to Dismiss Case

EH__

Docket 58

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Party Information

Debtor(s):

Hector Rene Flores Jr.

Represented By
Kevin Tang

Joint Debtor(s):

Mayra Cecilia Canchola Vasquez

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-18720 Patricia Morales

Chapter 13

#95.00 Trustee's Motion to Dismiss Case

EH__

Docket 78

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/31/19

Party Information

Debtor(s):

Patricia Morales

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-19083 Juan Hernandez

Chapter 13

#96.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Juan Hernandez

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-19291 Carolyn Maxine Bodden

Chapter 13

#97.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Party Information

Debtor(s):

Carolyn Maxine Bodden

Represented By
Edward G Topolski

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-19787 Gloria Hayslet

Chapter 13

#98.00 Trustee's Motion to Dismiss Case

EH__

Docket 73

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Gloria Hayslet

Represented By
Nancy Korompis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-19790 Angel Rodriguez

Chapter 13

#99.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Party Information

Debtor(s):

Angel Rodriguez

Represented By
Nancy Korompis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-20279 Carolyn Agtang Glenn

Chapter 13

#100.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Carolyn Agtang Glenn

Represented By
D Justin Harelik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-20318 Lynette Kathryn Beaver

Chapter 13

#101.00 Trustee's Motion to Dismiss Case

EH__

Docket 70

Party Information

Debtor(s):

Lynette Kathryn Beaver

Represented By
Anerio V Altman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-20652 Marian Amelia Pagano

Chapter 13

#102.00 Trustee's Motion to Dismiss Case

EH__

Docket 43

Party Information

Debtor(s):

Marian Amelia Pagano

Represented By
David Lozano

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:17-20659 Coralia Beltran Rivas

Chapter 13

#103.00 Trustee's Motion to Dismiss Case .

EH__

Docket 48

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Coralia Beltran Rivas

Represented By
Stephen L Burton

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10079 Cheryl Linda Fernandez

Chapter 13

#104.00 Trustee's Motion to Dismiss Case

EH__

Docket 74

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19**

Party Information

Debtor(s):

Cheryl Linda Fernandez

Represented By
Matthew D Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10261 Nereeka Tamar Haynes

Chapter 13

#105.00 Trustee's Motion to Dismiss Case

EH__

Docket 56

Party Information

Debtor(s):

Nereeka Tamar Haynes

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10329 Mohammed A Nazir and Boshara Nazir

Chapter 13

#106.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Mohammed A Nazir

Represented By
Paul Y Lee

Joint Debtor(s):

Boshara Nazir

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10414 Leonel Villa and Lucila Pineda

Chapter 13

#107.00 Trustee's Motion to Dismiss Case

EH__

Docket 73

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/14/19

Party Information

Debtor(s):

Leonel Villa

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Lucila Pineda

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10416 Jose Guadalupe Lopez and Margarita Lopez

Chapter 13

#108.00 Trustee's Motion to Dismiss Case

EH__

Docket 50

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Jose Guadalupe Lopez

Represented By
David Lozano

Joint Debtor(s):

Margarita Lopez

Represented By
David Lozano

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10456 David Allen Rose, Jr. and Karen Sue Rose

Chapter 13

#109.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

David Allen Rose Jr.

Represented By
Dana Travis

Joint Debtor(s):

Karen Sue Rose

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10496 Luis Fuentes Moreno

Chapter 13

#110.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Luis Fuentes Moreno

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10498 Stephen Francis Wallin and Kathleen Lillian Wallin

Chapter 13

#111.00 Trustee's Motion to Dismiss Case

EH__

Docket 31

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/14/19

Party Information

Debtor(s):

Stephen Francis Wallin

Represented By
Dana Travis

Joint Debtor(s):

Kathleen Lillian Wallin

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10636 Alejandro J. Casillas and Patricia Casillas

Chapter 13

#112.00 Trustee's Motion to Dismiss Case

EH__

Docket 46

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19**

Party Information

Debtor(s):

Alejandro J. Casillas

Represented By
Tina H Trinh

Joint Debtor(s):

Patricia Casillas

Represented By
Tina H Trinh

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10684 Gary Randall Wootton

Chapter 13

#113.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Gary Randall Wootton

Represented By
Ethan Kiwhan Chin

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-10978 Veronica Hernandez

Chapter 13

#114.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Veronica Hernandez

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-11272 Rick Williamson and Helen Carol Williamson

Chapter 13

#115.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Rick Williamson

Represented By
Todd L Turoci

Joint Debtor(s):

Helen Carol Williamson

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-11416 Darlene J. Wadler

Chapter 13

#116.00 Trustee's Motion to Dismiss Case

EH__

Docket 43

Party Information

Debtor(s):

Darlene J. Wadler

Represented By
Michael Jay Berger

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-11653 Richard Espinoza

Chapter 13

#117.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Richard Espinoza

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-11670 Eric Reed Johnson and Kristine Lynn Johnson

Chapter 13

#118.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Eric Reed Johnson

Represented By
Todd L Turoci

Joint Debtor(s):

Kristine Lynn Johnson

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-11890 Rogelio Ramos and Maria Escobar

Chapter 13

#119.00 Trustee's Motion to Dismiss Case

EH__

Docket 44

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Rogelio Ramos

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Maria Escobar

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-11924 Don Gurule and Elaine Gurule

Chapter 13

#120.00 Trustee's Motion to Dismiss Case

EH__

Docket 60

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Don Gurule

Represented By
Christopher Hewitt

Joint Debtor(s):

Elaine Gurule

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-11982 Michael Billings

Chapter 13

#121.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Michael Billings

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-12272 Edbin Gonzalez and Maria Chavarria

Chapter 13

#122.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Edbin Gonzalez

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Maria Chavarria

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-12323 Kevin E Horton and Manuel F. Dela Rosa

Chapter 13

#123.00 Trustee's Motion to Dismiss Case

EH__

Docket 46

Party Information

Debtor(s):

Kevin E Horton

Represented By
Todd L Turoci

Joint Debtor(s):

Manuel F. Dela Rosa

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-12419 Donald Bollero and Jennifer Bollero

Chapter 13

#124.00 Trustee's Motion to Dismiss Case

EH__

Docket 30

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19**

Party Information

Debtor(s):

Donald Bollero

Represented By
Todd L Turoci

Joint Debtor(s):

Jennifer Bollero

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-12549 Billy Wayne Shipman, Jr. and Andrea Shipman

Chapter 13

#125.00 Trustee's Motion to Dismiss Case

EH__

Docket 43

Party Information

Debtor(s):

Billy Wayne Shipman Jr.

Represented By
Andrew Nguyen

Joint Debtor(s):

Andrea Shipman

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-12622 Karen Jannette Rimola

Chapter 13

#126.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

Party Information

Debtor(s):

Karen Jannette Rimola

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-12970 Lorena Valadez

Chapter 13

#127.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Lorena Valadez

Represented By
James T Lillard

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-13014 Elizabeth Dean

Chapter 13

#128.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Elizabeth Dean

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-13102 Luis Felipe Tejada and Veronica Esther Tejada

Chapter 13

#129.00 Trustee's Motion to Dismiss Case

EH__

Docket 25

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Party Information

Debtor(s):

Luis Felipe Tejada

Represented By
Dana Travis

Joint Debtor(s):

Veronica Esther Tejada

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-13111 Eusebia Rios

Chapter 13

#130.00 Trustee's Motion to Dismiss Case

EH__

Docket 26

Party Information

Debtor(s):

Eusebia Rios

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-13566 Marco Tulio Magana and Gloria Louisa Magana

Chapter 13

#131.00 Trustee's Motion to Dismiss Case

EH__

Docket 49

Party Information

Debtor(s):

Marco Tulio Magana

Represented By
Daniel King

Joint Debtor(s):

Gloria Louisa Magana

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-13714 Jose Martinez and Aurora Martinez

Chapter 13

#132.00 Trustee's Motion to Dismiss Case

EH__

Docket 44

Party Information

Debtor(s):

Jose Martinez

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Aurora Martinez

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-13793 Michael Moreno and Azucena Moreno

Chapter 13

#133.00 Trustee's Motion to Dismiss Case

EH__

Docket 71

Party Information

Debtor(s):

Michael Moreno

Represented By
Andrew Nguyen

Joint Debtor(s):

Azucena Moreno

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-14014 Maggie Ruth Thomas

Chapter 13

#134.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Maggie Ruth Thomas

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-14052 Glenda Faye Price

Chapter 13

#135.00 Trustee's Motion to Dismiss Case

EH__

Docket 45

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Glenda Faye Price

Represented By
Nancy Korompis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-14225 Karen Patricia Boyd

Chapter 13

#136.00 Trustee's Motion to Dismiss Case

EH__

Docket 46

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/24/19

Party Information

Debtor(s):

Karen Patricia Boyd

Represented By
David Lozano

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-14516 Gary Ray Osborn

Chapter 13

#137.00 Trustee's Motion to Dismiss Case

EH__

Docket 72

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/17/19

Party Information

Debtor(s):

Gary Ray Osborn

Represented By
Summer M Shaw
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-14603 Gabriel Agustin Blanco and Jeneke Nicole Blanco

Chapter 13

#138.00 Trustee's Motion to Dismiss Case

EH__

Docket 64

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Gabriel Agustin Blanco

Represented By
Norma Duenas

Joint Debtor(s):

Jeneke Nicole Blanco

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-14686 Cassandra Henderson

Chapter 13

#139.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

Party Information

Debtor(s):

Cassandra Henderson

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-14761 Reginald D. Caldwell

Chapter 13

#140.00 Trustee's Motion to Dismiss Case

EH__

Docket 55

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19**

Party Information

Debtor(s):

Reginald D. Caldwell

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-15192 Everett T Cain

Chapter 13

#141.00 Trustee's Motion to Dismiss Case

EH__

Docket 49

Party Information

Debtor(s):

Everett T Cain

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-15239 Amanda E Curry and Matthew L Curry

Chapter 13

#142.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

Party Information

Debtor(s):

Amanda E Curry

Represented By
Andy C Warshaw

Joint Debtor(s):

Matthew L Curry

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-15343 Jennifer Isabella Solares

Chapter 13

#143.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Jennifer Isabella Solares

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-15594 Henry Hurtado, Sr.

Chapter 13

#144.00 Trustee's Motion to Dismiss Case

EH__

Docket 29

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Henry Hurtado Sr.

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-15900 Adrio Soedarmo and Yolanda Soedarmo

Chapter 13

#145.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19**

Party Information

Debtor(s):

Adrio Soedarmo

Represented By
Ethan Kiwhan Chin

Joint Debtor(s):

Yolanda Soedarmo

Represented By
Ethan Kiwhan Chin

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-15970 Incha K Lockhart

Chapter 13

#146.00 Trustee's Motion to Dismiss Case

EH__

Docket 29

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Incha K Lockhart

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-16061 Michelle Denise Kelly

Chapter 13

#147.00 Trustee's Motion to Dismiss Case

EH__

Docket 29

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Michelle Denise Kelly

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-16098 Brianne Lucinda Pituley and Michele Diana Niehe Sharik

Chapter 13

#148.00 Trustee's Motion to Dismiss Case

EH__

Docket 23

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Brianne Lucinda Pituley

Represented By
Steven A Alpert

Joint Debtor(s):

Michele Diana Niehe Sharik Pituley

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-16196 Barbara Sue Patten

Chapter 13

#149.00 Trustee's Motion to Dismiss Case

EH__

Docket 31

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Barbara Sue Patten

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-16237 Miguel Santa Maria and Lilia Maldonado

Chapter 13

#150.00 Trustee's Motion to Dismiss Case

EH__

Docket 52

Party Information

Debtor(s):

Miguel Santa Maria

Represented By
Todd L Turoci

Joint Debtor(s):

Lilia Maldonado

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-16489 Rebecca Moore

Chapter 13

#151.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

Party Information

Debtor(s):

Rebecca Moore

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-16503 Irene Elizabeth Arias

Chapter 13

#152.00 Trustee's Motion to Dismiss Case

EH__

Docket 26

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19**

Party Information

Debtor(s):

Irene Elizabeth Arias

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-16643 Jesus N Aguilera

Chapter 13

#153.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Jesus N Aguilera

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-16680 Tanisha S. Santee

Chapter 13

#154.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

Party Information

Debtor(s):

Tanisha S. Santee

Represented By
Keith Q Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-16856 Jason Wade Trust and Shontay Leanne Trust

Chapter 13

#155.00 Trustee's Motion to Dismiss Case

EH__

Docket 57

Party Information

Debtor(s):

Jason Wade Trust

Represented By
Benjamin R Heston

Joint Debtor(s):

Shontay Leanne Trust

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-16996 Gabriel Cruz

Chapter 13

#156.00 Trustee's Motion to Dismiss Case

EH__

Docket 51

Party Information

Debtor(s):

Gabriel Cruz

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17204 Justo Ocegueda

Chapter 13

#157.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

Party Information

Debtor(s):

Justo Ocegueda

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17556 Daniel Javier Garcia

Chapter 13

#158.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Daniel Javier Garcia

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17605 Joseph N Duguay, II

Chapter 13

#159.00 Trustee's Motion to Dismiss Case

EH__

Docket 61

Party Information

Debtor(s):

Joseph N Duguay II

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17633 Debra Kristeen Schuler

Chapter 13

#160.00 Trustee's Motion to Dismiss Case

EH__

Docket 34

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Party Information

Debtor(s):

Debra Kristeen Schuler

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17635 David Bloch and Sarah Bloch

Chapter 13

#161.00 Trustee's Motion to Dismiss Case

EH__

Docket 25

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

David Bloch

Represented By
Julie J Villalobos

Joint Debtor(s):

Sarah Bloch

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17660 Sharon Lee Martinez

Chapter 13

#162.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Sharon Lee Martinez

Represented By
Nancy Korompis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17676 Patricia Ellen Bond-Gomez

Chapter 13

#163.00 Trustee's Motion to Dismiss Case

EH__

Docket 47

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Patricia Ellen Bond-Gomez

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17681 Cameron Hudson

Chapter 13

#164.00 Trustee's Motion to Dismiss Case

EH__

Docket 58

Party Information

Debtor(s):

Cameron Hudson

Represented By
Stuart R Simone

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17732 DeBora Debbie Walker

Chapter 13

#165.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

DeBora Debbie Walker

Represented By
Nicholas Nicholas Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17784 David John Stoykovich, Jr. and Merlina Lynn Burton

Chapter 13

#166.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

David John Stoykovich Jr.

Represented By
Todd L Turoci

Joint Debtor(s):

Merlina Lynn Burton

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17878 Sumanta Chakravarti and Madhumita Chakravarti

Chapter 13

#167.00 Trustee's Motion to Dismiss Case

EH__

Docket 41

Party Information

Debtor(s):

Sumanta Chakravarti

Represented By
Paul Y Lee

Joint Debtor(s):

Madhumita Chakravarti

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-17946 Erika Lynn Pruitt

Chapter 13

#168.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Erika Lynn Pruitt

Represented By
Raj T Wadhvani

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-18402 Susan Louise Marquez

Chapter 13

#169.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/14/19

Party Information

Debtor(s):

Susan Louise Marquez

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-18415 Donna Denise Upton

Chapter 13

#170.00 Trustee's Motion to Dismiss Case

EH__

Docket 39

Party Information

Debtor(s):

Donna Denise Upton

Represented By
Seema N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-18484 Denise Awages Bracken

Chapter 13

#171.00 Trustee's Motion to Dismiss Case

EH__

Docket 24

Party Information

Debtor(s):

Denise Awages Bracken

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-18614 Frank Thomas Scott

Chapter 13

#172.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Frank Thomas Scott

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-18724 Marie Lynne Trejo

Chapter 13

#173.00 Trustee's Motion to Dismiss Case

EH__

Docket 22

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/29/19**

Party Information

Debtor(s):

Marie Lynne Trejo

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-18739 Heather Gibson

Chapter 13

#174.00 Trustee's Motion to Dismiss Case

EH__

Docket 45

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Heather Gibson

Represented By
Natalie A Alvarado

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#175.00 Trustee's Motion to Dismiss Case

EH__

Docket 95

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-18821 Humberto Camacho, Jr and Sarah Camacho

Chapter 13

#176.00 Trustee's Motion to Dismiss Case

EH__

Docket 43

Party Information

Debtor(s):

Humberto Camacho Jr

Represented By
Christian N. Cooper

Joint Debtor(s):

Sarah Camacho

Represented By
Christian N. Cooper

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-18847 Jennifer Lee Minkalis

Chapter 13

#177.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Jennifer Lee Minkalis

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19027 Wendy Ramirez

Chapter 13

#178.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Party Information

Debtor(s):

Wendy Ramirez

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19093 Yolanda Williams

Chapter 13

#179.00 Trustee's Motion to Dismiss Case

EH__

Docket 45

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Yolanda Williams

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19183 Carmen Lynn Chilson

Chapter 13

#180.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19**

Party Information

Debtor(s):

Carmen Lynn Chilson

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19196 Sheila Rosales Manabat

Chapter 13

#181.00 Trustee's Motion to Dismiss Case

EH__

Docket 65

Party Information

Debtor(s):

Sheila Rosales Manabat

Represented By
John A Varley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19277 Kevin Daily

Chapter 13

#182.00 Trustee's Motion to Dismiss Case

EH__

Docket 24

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Kevin Daily

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19340 Dawn Michele McClure

Chapter 13

#183.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Dawn Michele McClure

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19414 Paul Edward Young, Jr.

Chapter 13

#184.00 Trustee's Motion to Dismiss Case

EH__

Docket 54

Party Information

Debtor(s):

Paul Edward Young Jr.

Represented By
Stephen L Burton

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19628 Reynaldo Perez and Gatziry Zeledon

Chapter 13

#185.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Reynaldo Perez

Represented By
Paul Y Lee

Joint Debtor(s):

Gatziry Zeledon

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19696 Corinthia A. Williams

Chapter 13

#186.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

Party Information

Debtor(s):

Corinthia A. Williams

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19729 John R Saxton

Chapter 13

#187.00 Trustee's Motion to Dismiss Case

EH__

Docket 59

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

John R Saxton

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19737 Abelardo Magana and Santos Magana

Chapter 13

#188.00 Trustee's Motion to Dismiss Case

EH__

Docket 26

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Abelardo Magana

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Santos Magana

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-19956 Herman A. Wendorff and Monica Wendorff

Chapter 13

#189.00 Trustee's Motion to Dismiss Case

EH__

Docket 44

Party Information

Debtor(s):

Herman A. Wendorff

Represented By
Daniel King

Joint Debtor(s):

Monica Wendorff

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20070 Alexander J Perfinowicz and Ingeborg Maria Pefinowicz

Chapter 13

#190.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Alexander J Perfinowicz

Represented By
Manfred Schroer

Joint Debtor(s):

Ingeborg Maria Pefinowicz

Represented By
Manfred Schroer

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20105 Darrel Jay Rumsey and Fe Eruela Rumsey

Chapter 13

#191.00 Trustee's Motion to Dismiss Case .

EH__

Docket 29

Party Information

Debtor(s):

Darrel Jay Rumsey

Represented By
Norma Duenas

Joint Debtor(s):

Fe Eruela Rumsey

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20176 Garry Kenneth Frazier

Chapter 13

#192.00 Trustee's Motion to Dismiss Case

EH__

Docket 23

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Garry Kenneth Frazier

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20232 Diana Marie Perrone

Chapter 13

#193.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

Party Information

Debtor(s):

Diana Marie Perrone

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20236 Carlos Rizo and Desiree Santistevan

Chapter 13

#194.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Carlos Rizo

Represented By
Erika Luna

Joint Debtor(s):

Desiree Santistevan

Represented By
Erika Luna

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20238 Efrain Padron

Chapter 13

#195.00 Trustee's Motion to Dismiss Case

EH__

Docket 77

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Efrain Padron

Represented By
Patricia A Mireles

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20292 Humberto Vergara

Chapter 13

#196.00 Trustee's Motion to Dismiss Case

EH__

Docket 34

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Humberto Vergara

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20413 Jose Ramon Castaneda

Chapter 13

#197.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

Party Information

Debtor(s):

Jose Ramon Castaneda

Represented By
Andrew Moher

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20644 Terry E Crossley and Janell Crossley

Chapter 13

#198.00 Trustee's Motion to Dismiss Case

EH__

Docket 51

*** VACATED *** REASON: CASE DISMISSED 7/23/19

Party Information

Debtor(s):

Terry E Crossley

Represented By
Christopher J Langley

Joint Debtor(s):

Janell Crossley

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20845 Gloria Simmons

Chapter 13

#199.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Gloria Simmons

Represented By
Bruce A Wilson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20847 Erica Raquel Zavaleta

Chapter 13

#200.00 Trustee's Motion to Dismiss Case

EH__

Docket 31

Party Information

Debtor(s):

Erica Raquel Zavaleta

Represented By
William J Smyth
Stephen S Smyth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:18-20873 Alfonso Alvarado, Jr. and Alpha Rubi Alvarado

Chapter 13

#201.00 Trustee's Motion to Dismiss Case

EH__

Docket 34

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/29/19**

Party Information

Debtor(s):

Alfonso Alvarado Jr.

Represented By
Michael E Clark

Joint Debtor(s):

Alpha Rubi Alvarado

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-10273 Maisha Lenette Ghant-Elie

Chapter 13

#202.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Party Information

Debtor(s):

Maisha Lenette Ghant-Elie

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-10276 Julie Michelle Tsosie

Chapter 13

#203.00 Trustee's Motion to Dismiss Case

EH__

Docket 43

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Julie Michelle Tsosie

Represented By
Alon Darvish

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-10401 Gail Nash

Chapter 13

#204.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Gail Nash

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-10415 Lewis K. Chism and Latoya A. Chism

Chapter 13

#205.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

Party Information

Debtor(s):

Lewis K. Chism

Represented By
Christopher J Langley

Joint Debtor(s):

Latoya A. Chism

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-10531 Kimberly A Hardcastle

Chapter 13

#206.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/17/19

Party Information

Debtor(s):

Kimberly A Hardcastle

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-10684 Rodrigo Flores Saavedra and Juana Garcia De Flores

Chapter 13

#207.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

Party Information

Debtor(s):

Rodrigo Flores Saavedra

Represented By
James Geoffrey Beirne

Joint Debtor(s):

Juana Garcia De Flores

Represented By
James Geoffrey Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-10822 Jason Leroy Albaugh and Jamie Lean Albaugh

Chapter 13

#208.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Jason Leroy Albaugh

Represented By
Gregory M Shanfeld

Joint Debtor(s):

Jamie Lean Albaugh

Represented By
Gregory M Shanfeld

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-10934 Jorge Ramirez and Evelia Ramirez

Chapter 13

#209.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

Party Information

Debtor(s):

Jorge Ramirez

Represented By
Christopher J Langley

Joint Debtor(s):

Evelia Ramirez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-10990 David Sandoval and Mary Celine Sandoval

Chapter 13

#210.00 Trustee's Motion to Dismiss Case

EH__

Docket 45

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

David Sandoval

Represented By
Bryant C MacDonald

Joint Debtor(s):

Mary Celine Sandoval

Represented By
Bryant C MacDonald

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11041 Caleb J. Bellot and Mandle Lynn Bellot

Chapter 13

#211.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

Party Information

Debtor(s):

Caleb J. Bellot

Represented By
Daniel King

Joint Debtor(s):

Mandle Lynn Bellot

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11103 Golda Y Williams

Chapter 13

#212.00 Trustee's Motion to Dismiss Case

EH__

Docket 25

Party Information

Debtor(s):

Golda Y Williams

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11129 Patrick M Reilly and Karen J Reilly

Chapter 13

#213.00 Trustee's Motion to Dismiss Case

EH__

Docket 34

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/22/19

Party Information

Debtor(s):

Patrick M Reilly

Represented By
James T Lillard

Joint Debtor(s):

Karen J Reilly

Represented By
James T Lillard

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11371 Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

#214.00 Trustee's Motion to Dismiss Case

EH__

Docket 67

Party Information

Debtor(s):

Warren Alan Hall

Represented By
Lionel E Giron

Joint Debtor(s):

Kelly Suzanne Hall

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11522 Eugenio Giuseppe Mannella

Chapter 13

#215.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19

Party Information

Debtor(s):

Eugenio Giuseppe Mannella

Represented By
Suzette Douglas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11619 David Ray Bowman and Michelle Jan Bowman

Chapter 13

#216.00 Trustee's Motion to Dismiss Case

EH__

Docket 30

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19**

Party Information

Debtor(s):

David Ray Bowman

Represented By
Carey C Pickford

Joint Debtor(s):

Michelle Jan Bowman

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11751 Leonard Lott and Darlene Lott

Chapter 13

#217.00 Trustee's Motion to Dismiss Case

EH__

Docket 29

Party Information

Debtor(s):

Leonard Lott

Represented By
Daniel King

Joint Debtor(s):

Darlene Lott

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11766 Hassan Mohamad Adib Yahya

Chapter 13

#218.00 Trustee's Motion to Dismiss Case

EH__

Docket 25

Party Information

Debtor(s):

Hassan Mohamad Adib Yahya

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11835 Eusebio H Martinez

Chapter 13

#219.00 Trustee's Motion to Dismiss Case

EH__

Docket 25

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Eusebio H Martinez

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11900 Asim Muhammad Farooq and Afifa Farooq

Chapter 13

#220.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Asim Muhammad Farooq

Represented By
Dana Travis

Joint Debtor(s):

Afifa Farooq

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11923 Kristi Jill Kasel

Chapter 13

#221.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Kristi Jill Kasel

Represented By
Aaron Lloyd

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-11963 Pamela M Bradford

Chapter 13

#222.00 Trustee's Motion to Dismiss Case

EH__

Docket 38

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/15/19

Party Information

Debtor(s):

Pamela M Bradford

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-12113 Rudy Torres Garcia and Irma Valencia Garcia

Chapter 13

#223.00 Trustee's Motion to Dismiss Case

EH__

Docket 25

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/8/19**

Party Information

Debtor(s):

Rudy Torres Garcia

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Irma Valencia Garcia

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-12169 Jason G. Brodowski and Lithia A. Brodowski

Chapter 13

#224.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Jason G. Brodowski

Represented By
Patricia M Ashcraft

Joint Debtor(s):

Lithia A. Brodowski

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-12323 Isela Irma Vega

Chapter 13

#225.00 Trustee's Motion to Dismiss Case

EH__

Docket 25

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Isela Irma Vega

Represented By
Gregory M Shanfeld

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-12375 Terry L. Hogle

Chapter 13

#226.00 Trustee's Motion to Dismiss Case

EH__

Docket 26

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Terry L. Hogle

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-12398 Jerry Melendrez and Laura Therese Melendrez

Chapter 13

#227.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

Party Information

Debtor(s):

Jerry Melendrez

Represented By
Todd L Turoci

Joint Debtor(s):

Laura Therese Melendrez

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-12483 Hector Jesus Sevilla

Chapter 13

#228.00 Trustee's Motion to Dismiss Case

EH__

Docket 24

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Hector Jesus Sevilla

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-12626 Diana June Tucker

Chapter 13

#229.00 Trustee's Motion to Dismiss Case

EH__

Docket 25

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Diana June Tucker

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:19-12702 Cesar Armando Carrillo

Chapter 13

#230.00 Trustee's Motion to Dismiss Case

EH__

Docket 30

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/7/19

Party Information

Debtor(s):

Cesar Armando Carrillo

Represented By
Matthew D Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Monday, August 19, 2019

Hearing Room 303

1:00 PM

6:16-12400 Ernestine Steppes

Chapter 13

#231.00 Trustee's Motion to Dismiss Case

EH__

Docket 57

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/12/19

Party Information

Debtor(s):

Ernestine Steppes

Represented By
Mathew Alden

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-16372 Soladean Lee Dade, Jr

Chapter 7

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 11210 4th St. #2311, Rancho Cucamonga, CA 91730

MOVANT: EQR-FANWELL 2007 LIMITED PARTNERSHIP

EH__

Docket 7

Tentative Ruling:

TENTATIVE RULING

August 20, 2019

Service: Proper

Opposition: None

The Court is inclined to GRANT Movant's motion for relief from the stay under 11 U.S.C. § 362(d)(1) and (2). GRANT Movant's request at ¶ 2 to enforce remedies to obtain possession of the property. GRANT Movant's request for waiver of Rule 4001 stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Soladean Lee Dade Jr

Pro Se

Movant(s):

EQR-FANWELL 2007 LIMITED

Represented By
Scott Andrews

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Soladean Lee Dade, Jr

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-16175 Natifa Snowden

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 233 W. Nicolet St. #5 Banning, CA 92220

MOVANT: EUPHORIA CAPITAL LLC

EH__

Docket 7

***** VACATED *** REASON: CASE DISMISSED 8/5/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Natifa Snowden

Pro Se

Movant(s):

EUPHORIA CAPITAL LLC

Represented By
Scott Andrews

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-15959 Lasunda McCrary

Chapter 7

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 19925 Krameria Ave., Riverside, CA 92508

MOVANT: JINGCHENG LEO

EH__

Docket 12

Tentative Ruling:

TENTATIVE RULING

August 20, 2019

Service: Proper

Opposition: None

The Court is inclined to GRANT Movant's motion for relief from the stay under 11 U.S.C. § 362(d)(1) and (2). GRANT Movant's request at ¶ 2 to enforce remedies to obtain possession of the property. GRANT Movant's request for waiver of Rule 4001 stay. DENY request for establishment of a deadline for assumption or rejection of the lease as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Lasunda McCrary

Represented By
Edward T Weber

Movant(s):

Jingcheng Leo

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Lasunda McCrary

Chapter 7

Paul E Gold

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-15958 Gwendolyn Onuekwusi

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 8869 Cherbourg Dr., Riverside, CA 92504

MOVANT: LOUDEN, LLC

EH__

Docket 9

***** VACATED *** REASON: CASE DISMISSED 8/13/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gwendolyn Onuekwusi

Pro Se

Movant(s):

Louden, LLC.

Represented By
Scott Andrews

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-15620 Linda Foster

Chapter 13

#5.00 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Insurance Proceeds RE: 2012 MAZDA MAZDA 6 VIN 1YVHZ8DH5C5M34326

MOVANT: AMERICREDIT FINANCIAL SERVICES

EH ____

Docket 15

Tentative Ruling:

TENTATIVE RULING:

August 20, 2019

Service: Proper

Opposition: None

The Court is inclined to GRANT Movant's motion for relief from the stay to enforce its remedies to proceed to final judgment in the nonbankruptcy foreign as to the insurance proceeds for the damages to Debtor's Mazda 6. The stay is to remain in effect with respect to the enforcement of any judgment against the Debtor or property of Debtor's bankruptcy estate. Any excess recovery above the claim amount received from the insurance to be transferred to the Chapter 13 Trustee. GRANT relief from the Rule 4001(a)(3) stay. GRANT request that the order be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of the Bankruptcy Code.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Linda Foster

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Linda Foster

Chapter 13

Kevin Tang

Movant(s):

AmeriCredit Financial Services, Inc.

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-15426 Mona Elizabeth Delgado

Chapter 7

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Toyota, Corolla VIN # 2T1BURHE5HC825261

MOVANT: PRESTIGE FINANCIAL SERVICES

EH__

Docket 9

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Mona Elizabeth Delgado

Represented By
Miguel A Valente

Movant(s):

Prestige Financial Services, Inc.

Represented By
Anna Landa

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Mona Elizabeth Delgado

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-14886 Amanda Marie Tucker

Chapter 7

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 HYUNDAI ELANTRA; VIN: KMHDH6AE4DU006630

MOVANT: FIRST INVESTORS FINANCIAL SERVICES

EH__

Docket 16

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: None

The Court is inclined to DENY, without prejudice, Creditor's motion for relief from the automatic stay, as Creditor reused a signature page for the proof of service from a prior motion for relief from the stay, as the signature page for the proof of service for this motion. See proofs of service dated 6/11, 7/11, 7/12.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Amanda Marie Tucker

Represented By
Michael Doan

Movant(s):

First Investors Financial Services

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Amanda Marie Tucker

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-14876 Mansoureh Mansi Azhdarian

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 NISSAN NV200, VIN #: 3N6CM0KN2EK700870

MOVANT: NISSAN MOTOR ACCEPTANCE CORPORATION

EH__

Docket 16

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Mansoureh Mansi Azhdarian

Represented By
Rachelle Shakoori

Movant(s):

NISSAN MOTOR ACCEPTANCE

Represented By
Michael D Vanlochem

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Mansoureh Mansi Azhdarian

Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-14458 Alfonso Velasco, Jr

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 281 N. Aspen Avenue, Rialto, CA 92376

MOVANT: BROKER SOLUTIONS, INC

EH__

Docket 15

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfonso Velasco Jr

Pro Se

Movant(s):

Broker Solutions, Inc. D/B/A New

Represented By
Nathan F Smith

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-13721 Patrocinio Cea Mejia and Maria E Ugalde

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 FORD F150 VIN 1FTEW1CG5GKF70819

MOVANT: CAB WEST, LLC

EH ____

Docket 28

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Patrocinio Cea Mejia

Represented By
George C Panagiotou

Joint Debtor(s):

Maria E Ugalde

Represented By
George C Panagiotou

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Patrocinio Cea Mejia and Maria E Ugalde

Chapter 7

Movant(s):

Cab West LLC

Represented By
Sheryl K Ith
Jennifer H Wang

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-13331 Amie L Pannazzo

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 KIA FORTE

MOVANT: TD AUTO FINANCE LLC

EH ____

Docket 45

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1) and (2). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT relief from Rule 4001 stay. DENY request for adequate protection in the alternative as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Amie L Pannazzo

Represented By
Qais Zafari

Movant(s):

TD Auto Finance LLC

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Amie L Pannazzo

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-13314 Tamra Gillian Rehak

Chapter 13

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Sun Tracker Party Barge Boat/2014 Trailstar Carrier

MOVANT: BALBOA THRIFT & LOAN

EH__

Docket 36

Tentative Ruling:

Tentative Ruling:

Service: Proper

Opposition: Yes

Parties are to inform the Court as to the status of adequate protection negotiations.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Tamra Gillian Rehak

Represented By
Norma Duenas

Movant(s):

Balboa Thrift & Loan

Represented By
Keith E Herron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-13292 Miguel Angel Arredondo

Chapter 7

#13.00 Amended Motion (related document(s): 8 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Shirleen P. Damaske vs. Miguel Angel Arredondo, Superior Court of the State of California for the County of San Bernardino, Case Number CIVDS 1906769

MOVANT: SHIRLEEN P. DAMASKE

EH__

Docket 9

Tentative Ruling:

TENTATIVE RULING:

8/20/2019

Service: Improper

Opposition: None

The Court is inclined to CONTINUE the matter for Movant to properly serve Debtor and the Chapter 7 Trustee.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Miguel Angel Arredondo

Represented By
Daniel King

Movant(s):

Shirleen P Damaske

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Miguel Angel Arredondo

Michael P O'Sullivan

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-13174 Daniel Benjamin Verwers

Chapter 7

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: Plasma table and equipment

MOVANT: CIT BANK, N.A.

EH__

Docket 8

Tentative Ruling:

**Tentative Ruling:
8/20/2019**

Service is Proper
Opposition: None

Movant to address whether relief from stay is appropriate where parties have subsequently entered into a reaffirmation agreement filed on July 25, 2019.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Daniel Benjamin Verwers

Represented By
Todd L Turoci

Movant(s):

CIT Bank, N.A.

Represented By
Raffi Khatchadourian

Trustee(s):

Arturo Cisneros (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-10024 James J. Ysais

Chapter 13

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5705 Hudson Street, Riverside, CA 92509

MOVANT: NATIONSTAR MORTGAGE LLC

EH__

Docket 38

*** VACATED *** REASON: CASE DISMISSED 8/2/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James J. Ysais

Represented By
James D. Hornbuckle

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nichole Glowin
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:18-20292 Humberto Vergara

Chapter 13

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 580 W. Grove St, Rialto, CA 92376 .

MOVANT: U.S. BANK, NATIONAL ASSOCIATION

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Humberto Vergara

Represented By
Jaime A Cuevas Jr.

Movant(s):

U.S. BANK, NA AS LEGAL TITLE

Represented By
Diane Weifenbach

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23631 Rhea Drive, Moreno Valley, CA 92557

MOVANT: NATIONSTAR MORTGAGE LLC DBA MR. COOPER AS
SERVICING AGENT FOR DEUTSCHE BANK NATIONAL TRUST COMPANY

EH__

Docket 42

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Movant(s):

Deutsche Bank National Trust

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:18-14053 Wallace Stanton Miles

Chapter 13

#18.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 51700 Avenida Martinez, La Quinta, CA 92253

MOVANT: MTGLQ INVESTORS, LP

From: 7/9/19

EH__

Docket 47

***** VACATED *** REASON: ORDER ENTERED 7/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Wallace Stanton Miles

Represented By
Stuart G Steingraber

Movant(s):

MTGLQ Investors, L.P.

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:18-12170 Pamela Ann Harris

Chapter 13

#19.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1939 Prince Albert Drive, Riverside, CA 92507

MOVANT: SELECT PORTFOLIO SERVICING INC.

From: 7/16/19

EH__

Docket 84

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the negotiations for an adequate protection order.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Pamela Ann Harris

Represented By
Halli B Heston

Movant(s):

Wilmington Trust, NA, successor

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Pamela Ann Harris

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:18-11403 Dony M Portillo and Raquel A Portillo

Chapter 13

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 FORD FUSION VIN 3FA6P0SU5GR385478

MOVANT: CAB WEST, LLC

EH ____

Docket 68

***** VACATED *** REASON: ORDER ENTERED 8/19/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dony M Portillo

Represented By
Paul Y Lee

Joint Debtor(s):

Raquel A Portillo

Represented By
Paul Y Lee
Andrea Liddick

Movant(s):

Cab West LLC

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:18-10909 Candyce Flemister

Chapter 13

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15756 Granada Drive, Moreno Valley, CA 92551

MOVANT: NATIONSTAR MORTGAGE LLC

EH ____

Docket 38

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to enter into an agreement with the Debtor. GRANT relief from Rule 4001 stay. GRANT request that, upon entry of the order, that Debtor be considered a borrower, as defined under Cal. Civ. Code § 2920.5(c)(2)(C), for the purposes of Cal. Civ. Code § 2923.5. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Candyce Flemister

Chapter 13

Debtor(s):

Candyce Flemister

Represented By
Christopher Hewitt

Movant(s):

Nationstar Mortgage LLC, d/b/a Mr.

Represented By
Gilbert R Yabes
Dane W Exnowski
Kelsey X Luu

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:17-20240 Natona Smith and Tameiko Smith

Chapter 13

#22.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15573 Kearny Drive, Adelanto, CA 92301

MOVANT: FMJM RWL IV TRUST 2017-1

EH__

Docket 42

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the loan modification. Otherwise, it appears that relief from the stay is warranted.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Natona Smith

Represented By
Natalie A Alvarado

Joint Debtor(s):

Tameiko Smith

Represented By
Natalie A Alvarado

Movant(s):

FMJM RWL IV Trust 2017-1

Represented By
Daniel K Fujimoto

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Natona Smith and Tameiko Smith

Chapter 13

Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:17-20121 Agustin Napolion Joya and Dora Maria Joya

Chapter 13

#23.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA FIT, JHMG K5H8 6HS0 10191

MOVANT: HONDA LEASE TRUST

EH__

Docket 59

Tentative Ruling:

TENTATIVE RULING

August 20, 2019

Service: Proper

Opposition: None

The Court is inclined to GRANT Movant's motion for relief from the stay under 11 U.S.C. § 362(d)(1). GRANT request at ¶ 2 to enforce remedies to obtain possession of the property. GRANT request for waiver of Rule 4001 stay. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Agustin Napolion Joya

Represented By
Daniel King

Joint Debtor(s):

Dora Maria Joya

Represented By
Daniel King

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Agustin Napolion Joya and Dora Maria Joya

Chapter 13

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:17-17722 Joseph Daniel Coleman and Rosalinda Maria Coleman

Chapter 13

#24.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 KIA Forte EX Sedan 4D

MOVANT: CAPITAL ONE AUTO FINANCE

From: 7/9/19

EH ____

Docket 38

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Joseph Daniel Coleman

Represented By
Nathan Fransen

Joint Debtor(s):

Rosalinda Maria Coleman

Represented By
Nathan Fransen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Joseph Daniel Coleman and Rosalinda Maria Coleman

Chapter 13

Movant(s):

Capital One Auto Finance, a division

Represented By
Cheryl A Skigin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:17-16409 Jesse Norman Dofelmire and Roucelle Frias Dofelmire

Chapter 13

#25.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 37134 Sierra Grove Dr Murrieta, CA 92563

MOVANT: THE MONEY SOURCE INC

EH__

Docket 72

***** VACATED *** REASON: CASE DISMISSED 8/19/19**

Tentative Ruling:

Party Information

Debtor(s):

Jesse Norman Dofelmire

Represented By
Carey C Pickford

Joint Debtor(s):

Roucelle Frias Dofelmire

Represented By
Carey C Pickford

Movant(s):

The Money Source Inc.

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:17-16227 Shawn L. Johnson

Chapter 13

#26.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6583 Kunzite Court, Mira Loma, CA 91752

MOVANT: U.S. BANK NATIONAL ASSOCIATION

From: 5/21/19, 6/4/19, 7/9/19

EH__

Docket 49

***** VACATED *** REASON: ORDER ENTERED 8/13/19**

Tentative Ruling:

Tentative Ruling:

5/21/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to optionally provide and enter into an agreement with Debtor. GRANT request for termination of the 11 U.S.C. § 1301(a) co-debtor stay. GRANT relief from Rule 4001 stay. GRANT request that Debtor be declared a borrower as defined in Cal Civ. Code § 2920.5(c)(2)(C). DENY request for adequate protection in the alternative.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Shawn L. Johnson

Chapter 13

Debtor(s):

Shawn L. Johnson

Represented By
Mark S Martinez

Movant(s):

U.S. Bank National Association, as

Represented By
Nancy L Lee
Darren J Devlin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:17-15647 Omar Enrique Lopez

Chapter 13

#27.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23502 Wooden Horse Trail, Murrieta, CA 92562-4721

MOVANT: EAGLE HOME MORTGAGE LLC

EH ____

Docket 53

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of adequate protection negotiations.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Omar Enrique Lopez

Represented By
Dana Travis

Movant(s):

Eagle Home Mortgage,LLC

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Hearing Room 303

10:00 AM

CONT... Omar Enrique Lopez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:17-11759 Monica Rees

Chapter 13

#28.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 FORD FUSION VIN 3FA6P0H7XDR215811

MOVANT: FIRST INVESTORS FINANCIAL SERVICES, INC

EH__

Docket 45

*** VACATED *** REASON: ORDER ENTERED 8/7/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Monica Rees

Represented By
Julie J Villalobos

Movant(s):

First Investors Financial Services,

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:16-20659 Romy Abalunan Geraldo and Bernadine Nieves Geraldo

Chapter 13

#29.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2767 Libra Dr., Riverside, California 92503-6018

MOVANT: NEWREZ LLC

EH__

Docket 63

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the cure of the arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Romy Abalunan Geraldo

Represented By
John F Brady

Joint Debtor(s):

Bernadine Nieves Geraldo

Represented By
John F Brady

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Erin M McCartney

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Romy Abalunan Geraldo and Bernadine Nieves Geraldo

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:16-20459 Winnie Marie Quanstrom

Chapter 13

#30.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3769 Castle Oak Drive, Riverside, CA 92505

MOVANT: SPECIALIZED LOAN SERVICING, LLC

From: 7/30/19

EH ____

Docket 55

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: Yes

While the motion is opposed, the merits of the opposition are not clear, and the declaration in support is insufficient as it is from Debtor's counsel. Therefore, the Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from § 1301(a) co-debtor stay. GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3 and 12.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Winnie Marie Quanstrom

Represented By
Dana Travis

Movant(s):

Specialized Loan Servicing LLC

Represented By
Mukta Suri
Nancy L Lee

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Winnie Marie Quanstrom

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:16-19018 Ingeborg Margarete Preisendanz

Chapter 13

#31.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23305 Spring Meadow Drive, Murrieta, California 92562

MOVANT: REVERSE MORTGAGE SOLUTIONS, INC.

EH__

Docket 62

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ingeborg Margarete Preisendanz

Represented By
Danny K Agai

Movant(s):

Wilmington Savings Fund Society,

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:16-15668 Roger C Jefferson

Chapter 13

#32.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4372 Edenwild Lane, Corona, CA 92883

MOVANT: JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

From: 7/9/19

EH__

Docket 122

***** VACATED *** REASON: ORDER ENTERED 8/15/19**

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: Yes

The Court notes that there is no evidence presented with either of Debtor's oppositions. The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d)(1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Roger C Jefferson

Represented By
Paul Y Lee

Movant(s):

JPMORGAN CHASE BANK,

Represented By
Gilbert R Yabes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Roger C Jefferson

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

6:19-16418 Janet Adams

Chapter 7

#32.10 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 23643 Ashwood Ave Moreno Valley CA 92557

MOVANT: STATEWIDE PROPERTY SERVICES, INC. CHARLES BROWN, KATHERINE BROWN

CASE DISMISSED 8/13/19

EH__

Docket 11

Tentative Ruling:

TENTATIVE RULING

August 20, 2019

Service: Proper

Opposition: None

The Court is inclined to DENY Movant's request for relief from the stay under 11 U.S.C. § 362(d)(1) as MOOT. DENY Movant's request at ¶ 2 to enforce remedies to obtain possession of the property as MOOT. GRANT request that the stay is annulled retroactive to the bankruptcy petition date, and that any post-petition acts taken by Movant to enforce its remedies regarding the Property shall not constitute a violation of the stay. GRANT Movant's request for waiver of Rule 4001 stay.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Janet Adams

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

10:00 AM

CONT... Janet Adams

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, August 20, 2019

Hearing Room 303

2:00 PM

6:18-20003 LC Stahl LLC

Chapter 11

#33.00 CONT Order (1) Setting Scheduling Hearing and Case Management
Conference and (2) Requiring Status Report
(HOLDING DATE)

From: 1/8/19, 2/26/19, 3/5/19, 4/10/19, 5/7/19, 6/25/19

EH ____

Docket 8

***** VACATED *** REASON: CASE DISMISSED 8/6/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LC Stahl LLC

Represented By
Stuart J Wald

**United States Bankruptcy Court
Central District of California
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Tuesday, August 20, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#34.00 CONT Motion RE: Objection to Claim Number 37 by Claimant Franchise Tax Board

From: 5/7/19, 6/25/19, 7/30/19

EH__

Docket 248

***** VACATED *** REASON: ORDER ENTERED 8/16/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

Movant(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

#35.00 Application for Compensation for Michael Jones, Debtor's Attorney, Period: 10/23/2018 to 3/26/2019, Fee: \$35050, Expenses: \$251.80

Also #36

EH__

Docket 183

Tentative Ruling:

Application: \$35,050.00 in fees and \$251.80 in expenses, as well as \$54,450.00 in fees previously approved by the Court on November 27, 2018, but for which no order was lodged by Applicant, for a combined request of \$89,500 in fees and \$251.80, totaling \$89,751.80 (\$79,151.80 remaining to be paid).

Opposition: No.

Analysis: 11 U.S.C. § 330(a)(3) (2005) provides factors to be considered in determining the reasonableness of requested compensation.

Background

On March 27, 2018, G Hurtado Construction, Inc. ("Debtor") filed its petition for chapter 11 relief. The bankruptcy was precipitated by a wage and hour lawsuit brought by two and possibly more former employees. On April 25, 2018, the Court approved the employment application of M. Jones & Associates, P.C. ("Applicant") to serve as counsel to Debtor. Debtor's initial disclosure statement required amendment following the Court's allowance of late-filed claims. The First Amended DS and Plan were filed in October 2018.

On October 22, 2018, the Applicant filed the first interim fee application seeking allowance of \$54,450 in fees and \$0 in expenses for the period of March 27, 2018, through and including October 22, 2018. Applicant also stated that it was in possession of \$10,600 of funds from the Debtor in their trust account. No

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2:00 PM

CONT...

G Hurtado Construction, Inc.

Chapter 11

opposition was filed. On November 27, 2018, the Court granted the interim fee application in the amount of \$43,560, based on an 80% allowance and a 20% holdback for final approval, on the condition that Applicant file a client declaration or explanation in regard to their application, as required by LBR 2016-1(a)(1)(J). However, Applicant never lodged an order as to their fee application, despite the Court granting their request.

On December 3, 2018, Debtor filed an adversarial complaint objecting to the claim of Juan Catano and Faustino Magana, and, in the alternative, requesting indemnification from Donahoo & Associates, P.C. On June 18, 2019, parties in the adversarial proceeding filed a stipulation requesting that the Court close the adversarial proceeding until the arbitration proceeding between the parties was resolved. On June 24, 2019, the Court entered an order continuing the status conference on the adversarial proceeding to January 15, 2020, with leave to parties to stipulate to advancing the conference if needed.

Debtor filed their second amended plan and disclosure statement on December 27, 2018. They filed a third amended plan and disclosure statement on March 7, 2019. The third amended plan was confirmed via order entered on April 5, 2019. The third amended plan provides a 102% dividend to the general unsecured creditors. The third amended plan was confirmed via order entered by the Court on April 5, 2019.

On July 22, 2019, Applicant filed their second, and final, application for compensation, seeking allowance of both \$35,050.00 in fees and \$251.80 in expenses for services performed from the period of October 23, 2018 through the confirmation of the plan at the hearing on March 26, 2019, as well as allowance of the \$54,450 in fees and \$0 in expenses which was originally approved by the Court on November 27, 2018, but for which no order was lodged. No opposition was filed against Applicant's second fee application. However, Applicant once again failed to file a client declaration or explanation in regard to their explanation, as required by LBR 2016-1(a)(1)(J).

Analysis

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2:00 PM

CONT...

G Hurtado Construction, Inc.

Chapter 11

Pursuant to 11 U.S.C. § 330(a)(1), the court may award reasonable compensation for actual, necessary services. The court has an independent duty to review the fee application in the absence of objections. *See* 11 U.S.C. § 330(a)(2). The court "will not indulge in extensive labor and guesswork to justify a fee for an attorney who has not done so himself." *In re Taylor*, 66 B.R. 390 (Bankr. W.D. Pa. 1986).

11 U.S.C. § 330(a)(3) provides factors to be considered in determining the reasonableness of requested compensation. These factors include time spent, rates charged, necessity of the service, reasonableness of the service, expertise of attorney, and comparable market rates.

Upon review of Applicant's final fee application, the billing records, and the work performed, the Court is inclined to find that Applicant's requested compensation is generally reasonable. In particular, the Court takes note of the successful resolution of Applicant's Chapter 11 case, with a confirmed 100% plan of reorganization and the successful litigation of several contested claims. While there is a remaining adversarial proceeding open in the case, the Court notes that parties have requested that it close that proceeding until arbitration has concluded. As such, the Court is inclined to grant Applicant's combined request of \$89,500 in fees.

Upon review of Counsel's request for \$251.80 in expenses, the Court is inclined to find that Counsel has properly accounted for their expenses, and that the expenses themselves are reasonable. As such, the Court is inclined to grant Counsel's request for \$251.80 in expenses. As the previous interim application requested \$0 in expenses, the Court does not need to approve a combined request here regarding expenses.

However, Applicant has once again failed to comply with Local Rule 2016-1(a)(1) (J). It requires a separately filed declaration from the client, or in the alternative, if the client refuses to provide such declaration, Applicant's own declaration describing steps taken to obtain the client's declaration. Previously, Debtor filed such a declaration after the hearing on November 27, 2018. As such, the Court will repeat its prior decision from the first interim application, and condition the order authorizing payment of the approved combined fees and expenses on the filing of a declaration or explanation from the Debtor, as required by LBR

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2:00 PM

CONT... G Hurtado Construction, Inc.
2016-1(a)(1)(J).

Chapter 11

Tentative Ruling:

August 20, 2019

Service: Proper
Opposition: No.

The Court is inclined to GRANT Applicant's application for compensation for fees and expenses in the combined amount of \$89,500 in fees and \$251.80 in expenses, for a total amount of \$89,751.80 (\$79,151.80 remaining to be paid). However, the entering of Applicant's lodged order for compensation will be conditioned on the filing of a declaration, or explanation as to why no declaration is forthcoming, as required by LBR 2016-1(a)(1)(J), as well as the lodgment of an order approving the first interim fee application.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

Movant(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

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2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

#36.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/8/18, 8/21/18, 9/11/18, 9/25/18, 10/30/18, 11/6/18, 12/18/18, 3/5/19,
3/26/19

Also #35

EH__

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

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Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#37.00 CONT Debtor's Motion to Dismiss Chapter 11 Case

From: 7/16/19

Also #38 - #39

EH ____

Docket 162

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

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Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#38.00 CONT United States Trustee's Motion to Dismiss Case or to Convert Case

From: 5/28/19, 7/16/19

Also #37 - #39

EH__

Docket 138

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

United States Trustee (RS)

Represented By
Everett L Green
Abram Feuerstein esq

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2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#39.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 8/21/18, 10/16/18, 12/4/18, 12/18/18, 1/15/19, 2/5/19, 4/16/19, 5/28/19, 7/16/19

Also #37 - #38

EH __

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Tuesday, August 20, 2019

Hearing Room 303

2:00 PM

6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#40.00 Application for Compensation for Kirsten A Worley, Special Counsel, Period: 7/12/2018 to 7/2/2019, Fee: \$98252.50, Expenses: \$387.10. (Worley, Kirsten)

Also #41 - #43

EH__

Docket 359

Tentative Ruling:

Application: \$126,562.50 in fees and \$493.00 in expenses for a total of \$127,055.50 (minus interim payments of \$28,310.00 in fees and \$105.90 in expenses for a current request of \$98,639.60).

Opposition: Yes (but resolved via stipulation).

Analysis: 11 U.S.C. § 330(a)(3) (2005) provides factors to be considered in determining the reasonableness of requested compensation.

Background

Debtor L.A. Steel Services, Inc. ("Debtor") filed their voluntary Chapter 11 petition on July 12, 2018. Debtor's second amended Chapter 11 plan was confirmed on July 3, 2019, and Debtor received their order of discharge on July 12, 2019. The plan provides for a 100% treatment of the general unsecured creditors.

Debtor filed an application for an order authorizing the employment of special counsel for Debtor Worley Law, P.C. ("Worley") on July 25, 2018. The order was entered on August 14, 2018. Worley was employed to:

- 1- advise and assist the Debtor with respect to factual and legal issues that may arise in the case related to construction and contractors;
- 2- advise and assist the Debtor with communication with general

**United States Bankruptcy Court
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CONT...

LA Steel Services, Inc., a California corporation

Chapter 11

contractors and owners regarding compliance with contract terms and applicable law, and to assist in the prosecution/negotiation of claims of the Debtor for additional compensation or change orders as applicable;

3- Advise and assist the Debtor related to claims which may be asserted by suppliers, vendors, and subcontractors, including claims of PSG and claims that Debtor may have against PSG; and

4- to perform any and all legal services incident and necessary herein as the Debtor may have required of the firm as special counsel.

Among the services Worley provided was consultation with Debtor on Debtor's claim objection to PSG's claim against Debtor, which included Worley assisting with the drafting regarding Debtor's claim objection.

Worley filed their final application for payment of fees and expenses on July 30, 2019. Worley requested \$126,562.50 in fees and \$493.00 in expenses, for a total of \$127,055.50. Worley received a \$25,000 retainer from Debtor. As part of Worley's employment order, Worley was allowed to receive 80% of their requested fees and 100% of their expenses through interim payments via monthly professional fee statements. Worley received \$28,310 in fees and \$105.90 in expenses through interim payments (including the remaining amounts from the retainer) and received no objections to any of the monthly fee statements. This leaves the current total request remaining to be paid at \$98,639.60.

The U.S. Trustee ("U.S.T.") filed an opposition to Worley's fee application on August 5, 2019. U.S.T. raised objections as to \$9,187.50 in requested fees from vaguely described entries, as well as \$5,655 in entries where both Worley and Debtor's counseled participated in the same meetings, raising concerns of duplicative work.

Debtor filed a statement of support of Worley's fee application on August 9, 2019.

Worley filed a response to U.S.T. on August 12, 2019 giving their explanation for the vague entries and explaining their role at the meetings where they participated alongside Debtor's counsel.

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Worley and U.S.T. entered into a stipulation filed on August 12, 2019. The parties agreed to a permanent reduction in the fees requested of \$2,840.63, for a new total of \$124,214.87 and a new current amount to be paid of \$95,798.97.

Analysis

Pursuant to 11 U.S.C. § 330(a)(1), the court may award reasonable compensation for actual, necessary services. The court has an independent duty to review the fee application in the absence of objections. *See* 11 U.S.C. § 330(a)(2). The court "will not indulge in extensive labor and guesswork to justify a fee for an attorney who has not done so himself." *In re Taylor*, 66 B.R. 390 (Bankr. W.D. Pa. 1986).

11 U.S.C. § 330(a)(3) provides factors to be considered in determining the reasonableness of requested compensation. These factors include time spent, rates charged, necessity of the service, reasonableness of the service, expertise of attorney, and comparable market rates.

Upon review of Worley's final fee application, the work performed by Worley during this matter, the U.S.T.'s opposition, and Worley's reply, the Court is inclined to find that the stipulation entered into by Worley and U.S.T. reflect a reasonable final compensation for the work performed by Worley. As such, the Court is inclined to grant Worley's reduced request for fees, per the stipulation, in the amount of \$123,721.87.

Upon review of Worley's request for \$493 in expenses, the Court is inclined to find that Worley has properly accounted for their expenses, and that the expenses themselves are reasonable. As such, the Court is inclined to grant Worley's request for \$493 in expenses.

Tentative Ruling:

Service: Proper

Opposition: Yes (but resolved via stipulation).

The Court is inclined to GRANT Movant's application for compensation for fees

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and expenses in the reduced amount of \$124,214.87 in in fees and \$493.00 in expenses, for a total amount of \$124,214.87, with a current amount remaining to be paid of \$95,798.97.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

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6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#41.00 Application for Compensation [First and Final Application for Approval of Pre-Confirmation Fees and Reimbursement of Expenses by Shulman Hodges & Bastian LLP, Attorneys for the Debtor and Debtor in Possession; Declaration of James C. Bastian, Jr. in Support Thereof for James C Bastian Jr, Debtor's Attorney, Period: 7/12/2018 to 7/2/2019, Fee: \$375,076.80, Expenses: \$24,001.84. (Bastian, James)

Also #40 - #43

EH__

Docket 355

Tentative Ruling:

Application: \$375,076.80 in fees and \$24,001.84 in expenses for a total of \$399,078.64 (minus interim payments of \$193,802.46 for a current request of \$205,276.18).

Opposition: No.

Analysis: 11 U.S.C. § 330(a)(3) (2005) provides factors to be considered in determining the reasonableness of requested compensation.

Background

Debtor L.A. Steel Services, Inc. ("Debtor") filed their voluntary Chapter 11 petition on July 12, 2018. Debtor's second amended Chapter 11 plan was confirmed on July 3, 2019, and Debtor received their order of discharge on July 12, 2019. The plan as confirmed provides a 100% treatment of the general unsecured creditors.

Debtor filed an application for an order authorizing the employment of Shulman, Hodges and Bastian as counsel for Debtor ("Counsel") on July 23, 2018. The order was entered on August 10, 2018.

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CONT... LA Steel Services, Inc., a California corporation

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Counsel filed their first and final application for payment of fees and expenses on July 26, 2019. Counsel requested \$375,076.80 in fees and \$24,001.84 in expenses, for a total of \$399,078.64. Counsel applied a 10% discount to their fee request. Counsel received a \$200,000 retainer from Debtor, of which \$95,362.09 was consumed prior to the petition date, leaving \$104,637.91 remaining. As part of Counsel's employment order, Counsel was allowed to receive 80% of their requested fees and 100% of their expenses through interim payments via monthly professional fee statements. Counsel received \$193,802.46 through interim payments (including the remaining amounts from the retainer) and received no objections to any of the monthly fee statements. This leaves the current total request remaining to be paid at \$205,276.

There has been no objection to Counsel's first and final fee application.

Analysis

Pursuant to 11 U.S.C. § 330(a)(1), the court may award reasonable compensation for actual, necessary services. The court has an independent duty to review the fee application in the absence of objections. *See* 11 U.S.C. § 330(a)(2). The court "will not indulge in extensive labor and guesswork to justify a fee for an attorney who has not done so himself." *In re Taylor*, 66 B.R. 390 (Bankr. W.D. Pa. 1986).

11 U.S.C. § 330(a)(3) provides factors to be considered in determining the reasonableness of requested compensation. These factors include time spent, rates charged, necessity of the service, reasonableness of the service, expertise of attorney, and comparable market rates.

Upon review of Counsel's final fee application, the billing records, and the work performed, the Court is inclined to find that Counsel's requested compensation is generally reasonable. In particular, the Court takes note of Counsel's successful shepherding of Debtor's case, resolution of several major disputes with suppliers, and development of a confirmed plan that provides a 100% dividend to the general unsecured creditors. The Court also takes into account Counsel's role in maintaining Debtor's business relationships with major suppliers and clients. Finally, the Court also notes the 10% discount that Counsel applied to their fees in

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CONT... LA Steel Services, Inc., a California corporation Chapter 11

their monthly professional fee requests. As such, the Court is inclined to grant Counsel's request for \$375,076.80 in fees.

Upon review of Counsel's request for \$24,001.84 in expenses, the Court is inclined to find that Counsel has more than properly accounted for their expenses, and that the expenses themselves are reasonable. As such, the Court is inclined to grant Counsel's request for \$24,001.84 in expenses.

Tentative Ruling:
August 20, 2019

Service: Proper
Opposition: No.

The Court is inclined to GRANT Movant's application for compensation for fees and expenses in the amount of \$375,076.80 in fees and \$24,001.84 in expenses, for a total amount of \$399,078.64, with a current amount remaining to be paid of \$205,276.187.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

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6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#42.00 Motion For Final Decree and Order Closing Case

Also #40 - #43

EH__

Docket 353

Tentative Ruling:

BACKGROUND

LA Steel Services, Inc. ("Debtor") filed their voluntary Chapter 11 petition on July 12, 2018. Their Chapter 11 plan was confirmed by the Court on July 3, 2019. Debtor filed this motion for entry of final decree and closing of case on July 26, 2019. There are two remaining motions to be resolved in the case, both concerning the approval of the compensation for Debtor's counsels, Shulman, Hodges and Bastian and Worley Law, P.C. Both of those motions are to be heard on the same date as this motion, August 20, 2019, and the Court has noted its inclination to grant both.

DISCUSSION

The failure of any party to oppose Debtor's motion will be treated as consent under LBR 9013-1(f)(3).

The Court should enter a final decree closing a case when a Chapter 11 estate has been fully administered. 11 U.S.C. § 350. Full administration of a case requires there are no unresolved matters concerning the case that remain to be decided, such as motions, contested matters, or adversary proceedings. *Greenfield Drive Storage Park v. California Para-Professional Servs. (In re Greenfield Storage Park)*, 207 B.R. 913, 918 (9th Cir. B.A.P. 1997). The question then turns to whether the case has been substantially consummated, as defined under 11 U.S.C. § 1101(2). *In re Wade*, 991 F.2d 402, 406 fn. 2 (7th Cir. 1993). § 1101(2) defines "substantial consummation" as when:

- 1- All, or substantially all of the property to be transferred under the plan has been transferred;
- 2- The debtor, or the successor to the debtor, has assumed management of the

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CONT... LA Steel Services, Inc., a California corporation Chapter 11

debtor's business under the plan and/or all or substantially all of the property dealt with by the plan; and

3- The distribution under the plan has commenced.

Here, while there are two remaining matters to be resolved, both will be resolved on the same date as this motion, and neither are in controversy at this time. The Court thus finds that the matter has been fully administered. In addition, the Court finds that the case has been substantially consummated. There was no property that needed to be distributed under the plan, Debtor has assumed the management of their business and control of their assets, and distributions have begun under the plan and are being carried out under the schedule.

TENTATIVE RULING

8/20/2019

SERVICE: PROPER

OPPOSITION: NONE

The Court is inclined to GRANT Debtor's motion, GRANT request that a Final Decree be entered, and GRANT request that this Chapter 11 case be closed.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By

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James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

Movant(s):

LA Steel Services, Inc., a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Kirsten A Worley

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6:18-15841 LA Steel Services, Inc., a California corporation

Chapter 11

#43.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 11/27/18, 12/19/18, 12/20/18, 1/15/19, 2/26/19, 3/19/19,
6/4/19; 7/1/19

Also #40 - #42

EH__

Docket 5

Tentative Ruling:

12/19/2018

All parties have authorization to appear telephonically for the 12/19/2018 Status
Conference.

Party Information

Debtor(s):

LA Steel Services, Inc., a California

Represented By

James C Bastian Jr

Melissa Davis Lowe

Kirsten A Worley

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6:19-13133 WILDOMAR ACE HARDWARE INC.

Chapter 11

#44.00 (Jointly Administered with LEAD CASE - 19-13127 MH)

CONT Emergency Motion for Authorization to Use Cash Collateral and Provide Adequate Protection

From: 4/29/19, 6/11/19

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

WILDOMAR ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13132 RIVERSIDE ACE HARDWARE INC.

Chapter 11

#45.00 (Jointly Administered with LEAD CASE - 19-13127 MH)
CONT Emergency Motion for Authorization to Use Cash Collateral and Provide Adequate Protection

From: 4/29/19, 6/11/19

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein

Movant(s):

RIVERSIDE ACE HARDWARE

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13130 9 FINGERS INC

Chapter 11

#46.00 (Jointly Administered with LEAD CASE - 19-13127 MH)

CONT Emergency Motion for Authorization to Use Cash Collateral and Provide Adequate Protection

From: 4/29/19, 6/11/19

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

9 FINGERS INC

Represented By
Robert B Rosenstein

Movant(s):

9 FINGERS INC

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#47.00 (Jointly Administered - LEAD CASE - 19-13127 MH)
CONT Emergency Motion for Authorization to Use Cash Collateral and Provide Adequate Protection

From: 4/29/19, 6/11/19

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:18-10155 Jose De Jesus Hernandez

Chapter 11

#48.00 CONT Motion for approval of the adequacy of the chapter 11 disclosure statement

From: 1/29/19, 3/5/19, 6/11/19

Also #49

EH__

Docket 111

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

Movant(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

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6:18-10155 Jose De Jesus Hernandez

Chapter 11

#49.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 10/23/18, 11/27/18, 1/29/19, 3/5/19, 6/11/19

Also #48

EH__

Docket 96

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

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10:00 AM

6:19-12732 Armando Gutierrez

Chapter 7

#1.00 Pro se Reaffirmation Agreement Between Debtor and Capital One Auto Finance, a division of Capital One. N.A. re 2016 Honda Civic Sedan 4D LX 14

EH ____

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Armando Gutierrez

Represented By
Daniel King

Trustee(s):

Steven M Speier (TR)

Pro Se

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6:19-12890 Travis Anthony Lopez

Chapter 7

#2.00 Pro se Reaffirmation Agreement Between Debtor and VW Credit Inc
re: 2012 Audi A4

EH ____

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Travis Anthony Lopez

Pro Se

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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10:00 AM

6:19-13012 Josefa Brito Ocampo

Chapter 7

#3.00 Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation
re 2012 Honda Civic

EH__

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Josefa Brito Ocampo

Represented By
Peter Recchia

Trustee(s):

Lynda T. Bui (TR)

Pro Se

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10:00 AM

6:19-13498 Douglas Alfredo Figueroa-Ramirez and Dulce Karina

Chapter 7

#4.00 Pro se Reaffirmation Agreement Between Debtor and Ally Bank re 2014 Acura
EH__

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Alfredo Figueroa-Ramirez

Represented By
Michael H Colmenares

Joint Debtor(s):

Dulce Karina Cabrera

Represented By
Michael H Colmenares

Trustee(s):

Lynda T. Bui (TR)

Pro Se

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6:19-13736 Cristian Eduardo Jimenez Guzman and Vanessa Mederos

Chapter 7

#5.00 Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation re: 2016 Toyota Tacoma

EH ____

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cristian Eduardo Jimenez Guzman

Represented By
Marlin Branstetter

Joint Debtor(s):

Vanessa Mederos

Represented By
Marlin Branstetter

Trustee(s):

Charles W Daff (TR)

Pro Se

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6:19-14214 David Ray Clark and Ruth Ann Clark

Chapter 7

#6.00 Pro se Reaffirmation Agreement Between Debtor and Ally Bank Lease Trust re
2018 Dodge Charger

EH__

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Ray Clark	Pro Se
-----------------	--------

Joint Debtor(s):

Ruth Ann Clark	Pro Se
----------------	--------

Trustee(s):

Arturo Cisneros (TR)	Pro Se
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6:19-14689 Victoria Dawkins

Chapter 7

#7.00 Pro se Reaffirmation Agreement Between Debtor and Navy Federal Credit Union re: 2015 Chrysler 200

EH ____

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Victoria Dawkins

Pro Se

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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10:00 AM

6:19-14921 DeAndra Gayle Boydd

Chapter 7

#8.00 Pro se Reaffirmation Agreement Between Debtor and Harley-Davidson Credit Corp re 2014 Harley-Davidson LFSTC Heritage Softail Classic

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

DeAndra Gayle Boydd

Pro Se

Trustee(s):

Steven M Speier (TR)

Pro Se

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6:19-15338 Anna Maria Carlos

Chapter 7

#9.00 Pro se Reaffirmation Agreement Between Debtor and Alaska USA Federal
Credit Union re 2009 Nissan Maxima

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anna Maria Carlos

Represented By
Earl Robertson III

Trustee(s):

Steven M Speier (TR)

Pro Se

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6:16-13388 James Leonard Blow, Jr. and Amanda Joyce Atkinson-Blow Chapter 7

#10.00 Application to Employ GlassRatner Brokerage Services, Inc. as Real Estate Broker and to Enter Into Exclusive Listing Agreement

Also #11

EH__

Docket 116

Tentative Ruling:

8/21/2019

BACKGROUND

On April 15, 2016, James & Amanda Blow ("Debtors") filed a Chapter 13 voluntary petition. Debtors had previously filed a Chapter 7 case on September 4, 2008, receiving a discharge on January 9, 2009 (the "Previous Case"). On June 1, 2016, Debtors' Chapter 13 plan was confirmed. During 2017, Debtors modified the plan once, and also received authorization to enter into a loan modification.

On March 5, 2019, Debtors filed a second motion to modify plan, seeking to suspend three plan payments, while making up the suspended amount through an increase of \$49 in the monthly plan payment. The Chapter 13 Trustee filed comments requesting that the matter be set for hearing, and that Debtors provide updated evidence of their current income. Debtors did not set the matter for hearing. On April 10, 2019, Trustee filed a motion to dismiss, which Debtors did not timely oppose. On April 30, 2019, however, Debtors filed a notice of conversion to Chapter 7.

On June 5, 2019, the Court sent a notice of non-entitled to discharge pursuant to 11

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CONT... James Leonard Blow, Jr. and Amanda Joyce Atkinson-Blow Chapter 7

U.S.C. § 727(a) because the Previous Case was filed within eight years of the instant case. On June 25, 2019, Debtors filed a motion to vacate conversion, asserting that they were unaware they were ineligible for a Chapter 7 discharge, and that they would be able to complete a modified version of their Chapter 13 plan. On August 7, 2019, the Chapter 7 Trustee filed its opposition.

On July 16, 2019, the Chapter 7 Trustee filed an application to employ real estate broker. On July 31, 2019, Debtors filed their opposition, which primarily referred to the pending motion to vacate conversion.

DISCUSSION

Debtors' opposition to the Chapter 7 Trustee's application to employ real estate broker simply refers to the pending motion to vacate conversion, while also indicating that if the motion to vacate conversion is denied, Debtors will file a motion to dismiss or to re-convert.

As noted in this Court's tentative ruling on the motion to vacate conversion, Debtors are currently ineligible to be debtors in a Chapter 13 case pursuant to 11 U.S.C. § 109(e), because they are not "individuals with regular income" as that term is defined in 11 U.S.C. § 101(30).

Because the Court's tentative ruling indicates that the Court is inclined to deny vacation of the conversion order, the only actual basis for Debtor's opposition to the application to employ, that Debtors having a pending motion which would terminate the Chapter 7 bankruptcy estate, appears to have been removed. The Court gives no weight to the opposition's speculation that Debtors may file a motion to dismiss the Chapter 7 case or a motion to convert to Chapter 13.

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CONT... James Leonard Blow, Jr. and Amanda Joyce Atkinson-Blow

Chapter 7

TENTATIVE RULING

The Court is inclined to APPROVE the application.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

James Leonard Blow Jr.

Represented By
Jonathan D Doan

Joint Debtor(s):

Amanda Joyce Atkinson-Blow

Represented By
Jonathan D Doan

Movant(s):

Todd A. Frealy (TR)

Pro Se

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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11:00 AM

6:16-13388 James Leonard Blow, Jr. and Amanda Joyce Atkinson-Blow

Chapter 7

#11.00 Motion to vacate conversion and reinstate chapter 13 case

Also #10

EH ____

Docket 110

Tentative Ruling:

8/21/2019

BACKGROUND

On April 15, 2016, James & Amanda Blow ("Debtors") filed a Chapter 13 voluntary petition. Debtors had previously filed a Chapter 7 case on September 4, 2008, receiving a discharge on January 9, 2009 (the "Previous Case"). On June 1, 2016, Debtors' Chapter 13 plan was confirmed. During 2017, Debtors modified the plan once, and also received authorization to enter into a loan modification.

On March 5, 2019, Debtors filed a second motion to modify plan, seeking to suspend three plan payments, while making up the suspended amount through an increase of \$49 in the monthly plan payment. The Chapter 13 Trustee filed comments requesting that the matter be set for hearing, and that Debtors provide updated evidence of their current income. Debtors did not set the matter for hearing. On April 10, 2019, Trustee filed a motion to dismiss, which Debtors did not timely oppose. On April 30, 2019, however, Debtors filed a notice of conversion to Chapter 7.

On June 5, 2019, the Court sent a notice of non-entitled to discharge pursuant to 11 U.S.C. § 727(a) because the Previous Case was filed within eight years of the instant

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case. On June 25, 2019, Debtors filed a motion to vacate conversion, asserting that they were unaware they were ineligible for a Chapter 7 discharge, and that they would be able to complete a modified version of their Chapter 13 plan. On August 7, 2019, the Chapter 7 Trustee filed its opposition.

DISCUSSION

FED. R. CIV. P. Rule 60(b)(1),(6), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, provides as follows:

(b) On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect
- (6) any other reason that justifies relief

It is not clear whether Debtors whether Debtors are moving pursuant to FED. R.BANKR. P. Rule 60(b)(1) or (b)(6) (or both). Regarding Rule 60(b)(6), "[i]n order to obtain such relief from a judgment [] 'extraordinary circumstances' must exist." *U.S. v. Sparks*, 685 F.2d 1128,1130 (9th Cir. 1982) (*quoting Ackerman v. U.S.*, 340 U.S. 193, 199 (1950)); *see also Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 393 (1993). The Court agrees with the Chapter 7 Trustee that Debtors have failed to show the type of extraordinary circumstances which would justify relief under Rule 60(b)(6); other than a single citation to Rule 60(b)(6), the motion focuses on Rule 60(b)(1).

Courts disagree about whether, and in what circumstances, attorney error justifies relief under FED. R. CIV. P. 60(b)(1). Judge Easterbrook has held that attorney negligence is never an acceptable basis for relief under the rule. *See U.S. v. 7108 West Grand Ave., Chicago, Ill.*, 15 F.3d 632, 633-35 (7th Cir. 1994) ("Yet why should the label 'gross' make a difference to the underlying principle: that the errors and misconduct of an agent redound to the detriment of the principal rather than of the

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adversary in litigation?"). The Ninth Circuit has disagreed, holding that in cases of "gross negligence" relief is warranted under FED. R. CIV. P. 60(b)(1). *Cnty Dental Servs. v. Tani*, 282 F.3d 1164, 1168 (9th Cir. 2002) ("While the above principles provide the general rule regarding the client-attorney relationship, several circuits have distinguished a client's accountability for his counsel's neglectful or negligent acts – too often a normal part of representation – and his responsibility for the more unusual circumstance of his attorney's extreme negligence or egregious conduct."). Furthermore, the Ninth Circuit has found ordinary carelessness to be grounds for relief when there exists an extraordinary or unusual extrinsic cause. *See, e.g., Medina v. Wells Fargo Bank, N.A.*, 2016 WL 2944295 at *2 (C.D. Cal. 2016) (collecting cases). There is, however, much distance on the spectrum between gross negligence (when an attorney is no longer acting on behalf of a client) and ordinary "carelessness" in which relief under 60(b) will be granted.

Furthermore, courts often distinguish between a deliberate act with unintended consequences and an inadvertent attorney error. *Parks v. Armour Pharms.*, 1995 WL 13232 at *1 (N.D. Cal. 1995) ("This case is distinguishable from that in *Nemaizer v. Baker*, 793 F.2d 58 (2nd Cir. 1986), wherein the dismissal with prejudice was based upon a stipulation with defense counsel and an apparent misunderstanding by plaintiff of the effect of the stipulation. Here, plaintiffs' counsel and his secretary unilaterally and inadvertently filed a dismissal containing unintended 'with prejudice' language. They did not fail to appreciate the effect of the dismissal with prejudice; they failed to realize what they inadvertently filed.").

The distinction noted in *Parks* is illustrative of the problem here. As *Parks* notes, a party should not be relieved from acts that were deliberately chosen solely because the party did not comprehend the consequences of the decision. Here, the conversion of Debtors' case to Chapter 7 was clearly an intentional act. As such, Debtors have failed to establish grounds to vacate conversion.

In addition, as noted by the Chapter 7 Trustee, the most recent schedules filed by Debtors identify disposable income of -\$28. Therefore, Debtors are ineligible to be in a Chapter 13 case pursuant to 11 U.S.C. § 109(e) and 11 U.S.C. § 101(30), and thus vacation of the conversion order would be inappropriate.

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TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

James Leonard Blow Jr.

Represented By
Jonathan D Doan

Joint Debtor(s):

Amanda Joyce Atkinson-Blow

Represented By
Jonathan D Doan

Movant(s):

James Leonard Blow Jr.

Represented By
Jonathan D Doan

Amanda Joyce Atkinson-Blow

Represented By
Jonathan D Doan

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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6:18-12253 Lucy Ellen McHugh

Chapter 7

#12.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 41

Tentative Ruling:

8/21/2019

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,750.00
Trustee Expenses: \$ 63.00

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Lucy Ellen McHugh

Represented By
Christopher Hewitt

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:18-20316 Joel Eggleton and Heather Marie Eggleton

Chapter 7

#13.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 26

Tentative Ruling:

8/21/2019

No opposition has been filed.
Service was Improper

On July 2, 2019, the Chapter 7 Trustee filed its final report and notice of final report. The notice of final report, however, specified a hearing date of August 1, 2019 at 9:30 a.m., which is not an available hearing time. The next day, Trustee received a notice to filer identifying the error and stating that the matter would not be set for calendar.

The notice of final report was refiled on August 8, 2019. While the notice is signed August 2, 2019, service of the notice of hearing did not go out to parties in interest until August 10, 2019. Therefore, pursuant to the instructions on the notice of final report, the deadline to file an objection is August 24, 2019 – after the scheduled hearing. Therefore, notice and service being improper, the Court is inclined to CONTINUE the matter at least three weeks for Trustee to file an amended notice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joel Eggleton

Represented By
Sundee M Teeple

Joint Debtor(s):

Heather Marie Eggleton

Represented By
Sundee M Teeple

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Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:18-20506 Juan Conde

Chapter 7

#14.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 26

Tentative Ruling:

8/21/2019

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,263.02
Trustee Expenses: \$ 0.00

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Juan Conde

Represented By
Roland D Tweed

Trustee(s):

Lynda T. Bui (TR)

Pro Se

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6:18-20741 Frank Stephan Trautmann and Jirapa Trautmann

Chapter 7

#15.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 36

Tentative Ruling:

8/21/19

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee and Counsel for the Trustee, have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 659.75
Trustee Expenses: \$ 118.74

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Frank Stephan Trautmann

Represented By
Daniel King

Joint Debtor(s):

Jirapa Trautmann

Represented By
Daniel King

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#16.00 Motion to Reconsider (related documents 125 Application (Generic), 130 Motion to Amend, 135 Order on Generic Application (BNC-PDF)) Reconsider Order (docket # 135) Denying Motion for Nunc pro Tunc Employment of Real Estate Broker Jesse Bojorquez with three declarations

From: 6/26/19

EH__

Docket 321

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By

Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By

Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By

Cara J Hagan

Stephen Collias

Represented By

Cara J Hagan

Jesse Bojorquez

Represented By

Lawrence J Kuhlman
Autumn D Spaeth ESQ

American Business Investments

Represented By

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Lawrence J Kuhlman
Autumn D Spaeth ESQ

Mohammed Abdizadeh

Pro Se

Movant(s):

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#17.00 Motion Seeking An Order: (a) To Show Cause As To Why Timothy Sullivan Should Not Be Held In Contempt For Failing To Comply With The Court's Order Compelling Him To Comply With A Subpoena Duces Tecum; and/or (b) Requiring Timothy Sullivan To Produce Documents Without Redaction; and (c) Reopening Expert Discovery For The Purpose Of Having Timothy Sullivan Appear For Continue Deposition

EH__

Docket 563

Tentative Ruling:

8/21/2019

BACKGROUND

On April 25, 2008, Empire Land, LLC ("Debtor") filed a Chapter 11 voluntary petition. On December 8, 2008, Debtor's case was converted to Chapter 7.

Between March 26, 2010, and April 23, 2010, the Chapter 7 Trustee ("Plaintiff") filed 107 adversary proceedings, including this adversary proceeding, 6:10-1319, in which the primary defendant is Empire Partners, Inc. ("Defendant"). While the instant motion was filed in 6:10-1319, it is also related to two other adversary proceedings, 09-1235 and 10-1329.

During the years of litigation in the instant case, the parties have been embroiled in several discovery disputes and have obtained numerous extensions of discovery deadlines. The current discovery dispute began in June 2018, when Defendant served

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a subpoena *duces tecum* (the "Subpoena") on Timothy Sullivan ("Sullivan"), an expert witness of Plaintiff. Two weeks later, Plaintiff and Sullivan objected to the Subpoena.

On January 9, 2019, Defendant filed a motion to compel compliance with the Subpoena. After two continuances, the Court heard the matter on March 27, 2019, and, on May 9, 2019, entered an order granting the motion in part. Specifically, the Court granted the motion with respect to request for production number one and denied the motion with respect to requests for production numbers two through ten. Request for product number one states the following:

All DOCUMENTS that constitute communications with PLAINTIFF'S COUNSEL that relate to compensation for SULLIVAN'S study or testimony in this LITIGATION. This request includes all communications regarding compensation, as described in the 2010 Advisory Committee Notes, which states:

Under Rule 26(b)(4)(C)(i) attorney-expert communications regarding compensation for the expert's study or testimony may be the subject of discovery. In some cases, this discovery may go beyond the disclosure requirement in Rule 26(a)(2)(B)(vi). It is not limited to compensation for work forming the opinions to be expressed, but extends to all compensation for the study and testimony provided in relation to the action. Any communications about additional benefits to the expert, such as further work in the event of a successful result in the present case, would be included. This exception includes compensation for work done by a person or organization associated with the expert. The objective is to permit full inquiry into such potential sources of bias.

[Dkt. No. 563, Ex. A]. The Court ordered that the relevant documents be produced

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within thirty days of the entry of the order.

On May 30, 2019, Defendant received a response to the Subpoena. Defendant characterizes the response as follows:

In contemptuous defiance of the Order, on May 30, 2019, Mr. Sullivan allowed counsel for the Trustee to produce heavily redacted invoices, including those attached to the Declaration of Jeffrey Rosenfeld as Exhibit 1. The communications regarding compensation that were produced on behalf of Mr. Sullivan in redacted form prevented discovery and deposition on crucial information about the work that Mr. Sullivan and others at this firm performed in this matter. Based on the materials that were not redacted, it is obvious that most of the work was done by people other than Mr. Sullivan, since most of the hours identified were billed by others, including Ryan Early, Brent Koenig, JT Schwartz, Adam McAbee, Steve Carr, Ada Kaiser, Lisa Wells, Stiles McCauley, and Peter Dennehy.

[Dkt. No. 563, pg. 12, lines 19-28] (citations omitted). Plaintiff generally argues that the redactions were appropriate because the material redacted was not discoverable under FED. R. CIV. P. Rule 26(b)(4) and pursuant to attorney-client privilege and the work product doctrine.

LEGAL ANALYSIS

Local Rule 9020-1 outlines the two-step process that is initiated when a party in interest seeks a holding finding a party in contempt. First, pursuant to Local Rule 9020-1(b), a motion is filed requesting that the Court issue an order to show cause why a party should not be held in contempt. Pursuant to Local Rule 9020-1(b), the responding party has seven days to respond to the motion. Unsurprisingly, given the short notice window and given the protections afforded by the two-step process, an objection to the issuance of an order to show cause is relatively uncommon. When no objection is filed, the Court generally issues the order to show cause pursuant to Local Rule 9020-1(d).

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When an objection to the issuance of an order to show cause is filed, however, the local rules do not provide clear instructions as to the proper procedure to be employed. Given the totality of Local Rule 9020-1, which implies that the Court is to hold a hearing and weigh evidence during the second step of the process, the Court concludes that detailed factual findings are not appropriately issued during the first stage of the process, and that the factual assertions made by Defendant are entitled to deference at this initial stage. Therefore, while the parties have provided the Court with a number of exhibits, the Court concludes that the resolution of disputed facts is not appropriate at this stage.

Confining itself to the operative legal dispute, the Court turns to FED. R. CIV. P. Rule 26(b)(4)-(5), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7026, which state, in pertinent part:

(4) Trial Preparation: Experts.

(A) Deposition of an Expert Who May Testify. A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If Rule 26(a)(2)(B) requires a report from the expert, the deposition may be conducted only after the report is provided.

(B) Trial-Preparation Protection for Draft Reports or Disclosures. Rule 26(b)(3)(A) and (B) protect drafts of any report or disclosure required under Rule 26(a)(2), regardless of the form in which the draft is recorded.

(C) Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witness. Rule 26(b)(3)(A) and (B) protect communications between the party's attorney and any witness required to provide a report under Rule 26(a)(2)(B), regardless of the form of the communications, except to the extent that the communications:

- (i) relate to compensation for the expert's student or testimony;
- (ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or
- (iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

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(5) Claiming Privilege or Protecting Trial-Preparation Materials.

(A) Information Withheld. When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparataion material, the party must:

- (i) expressly make the claim; and
- (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed – and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

Here, the basis for the Subpoena was FED. R. CIV. P. Rule 26(b)(4)(C)(i), and the Subpoena closely tracked the language of the provision, while quoting at length from the relevant advisory committee notes.

Defendant asks the Court to focus on the requirements set forth in FED. R. CIV. P. Rule 26(b)(5) for claiming privilege or protecting trial-preparation materials.¹ According to Defendant, because Sullivan did not follow the approach outlined in FED. R. CIV. P. Rule 26(b)(5)(A), Sullivan has waived privilege, and, as a result, could not have properly invoked an applicable privilege in support of the redactions made.

Plaintiff asks the Court to focus on the phrase "otherwise discoverable." According to Plaintiff, because the subject of the redactions was outside the scope of FED. R. CIV. P. Rule 26(b)(4)(C)(i), the subject of the redactions was not discoverable, and, therefore, the procedure outlined in FED. R. CIV. P. Rule 26(b)(5)(A) did not need to be followed.

Because FED. R. CIV. P. Rule 26(b)(4)(C)(i) is a 2010 amendment to the Federal Rules of Civil Procedure, the parties appear to have only provided a single case addressing that subsection, and that case is of limited utility. Nevertheless, the Court believes that a resolution of the current legal dispute is apparent.

First, a brief review of the information outlined in the background section is illustrative. Second request for production number one in the Subpoena closely tracked the language of FED. R. CIV. P. Rule 26(b)(4)(C)(i). After Sullivan objected to the Subpoena, Defendant filed a motion to compel arguing that the scope of request for production number one was permissible under FED. R. CIV. P. Rule 26(b)(4)(C). Third, the Court entered an order compelling compliance with request for production number one – a natural result given that the

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request for production closely tracked, and did not exceed, the limits of discoverable information under FED. R. CIV. P. Rule 26(b)(4)(C). This case is not a case where a litigant served an overly broad subpoena, which targeted both properly discoverable and privileged information, forcing the other party to assert a privilege to restrict the scope of the subpoena. Instead, the subpoena issued by Defendant was, from the beginning, reasonable and properly tailored to limit the request to discoverable information. Because the subpoena did not seek privileged information, there was no need for Sullivan to respond by invoking privilege through the procedures of FED. R. CIV. P. Rule 26(b)(5)(A).

Instead, it appears that Defendant is now asking to increase the scope of the Subpoena, requesting new information that was not within its original scope. As noted by Defendant in its motion to compel:

RFP # 1 seeks discovery of all communications between plaintiff's counsel and the expert that relate to the expert's compensation. The request is based on the language adopted in 2010 as Fed. R. Civ. Proc. 26(b)(4)(C)(i), and incorporates the 2010 Advisory Committee Notes with respect to the type of discovery that is permitted with respect to communications regarding compensation.

[Dkt. No. 495, pg. 15, lines 11-17]. And, as noted earlier, because the Subpoena was properly and narrowly drafted from the beginning, the Court granted Defendant's motion to compel with respect to document production number one.

As noted by the court in *Davita Healthcare Partners, Inc. v. United States*, 128 Fed. Cl. 584: "As the 2010 Advisory Committee Note suggests, the focus of permitted discovery is on the amount of expert compensation, not on the tasks performed that led to compensation." Quite simply, in attempting to argue that Sullivan has waived privilege related to this supplemental information, Defendant ignores the fact that the scope of the Subpoena never targeted this supplemental information in the first place.

To the extent Plaintiff raises the argument, for the reasons detailed in Defendant's motion and reply, the Court disagrees with Plaintiff's contention that "[a] privilege log is only required where, in response to a discovery request, a party withholds information that is 'otherwise discoverable.'" [Dkt. No. 567, pg. 9, lines 17-18]. On the other hand, the Court agrees with Plaintiff's more limited argument that:

Since Request No. 1 sought "attorney-expert communications" that fall

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within the exception in Rule 26(b)(4)(C)(i), the Request necessarily did not require the production of detailed work descriptions in the invoice back-up documents that fall outside the exception. Accordingly, the Trustee and Mr. Sullivan did not need to assert attorney-client privilege or work product objections to Request No. 1 in order to protect the detailed work descriptions in those invoice back-up documents."

The Court notes that to the extent the redacted information actually constituted information within the scope of FED. R. CIV. P. Rule 26(b)(4)(C)(i), then the Court would consider the redactions to be violations of the Court's order compelling a response to request for production number one. While there are portions of Defendant's motion which do raise that contention, the pleadings presented to the Court seem primarily focused on whether redactions were improper because any applicable privilege was waived.

For the foregoing reasons, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I. Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

Jonathan A Loeb

Jeffrey Rosenfeld

P Sabin Willett

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James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Movant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By

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Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder
Cynthia M Cohen
Roye Zur
Alexander J Suarez

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

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6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

#18.00 Motion To Extend Discovery Cutoff And Related Dates Set Forth In Scheduling Order For Ninety Days

EH__

Docket 311

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Donald Reid
Charity J Manee

Movant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Donald Reid
Charity J Manee

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:15-14230 Home Security Stores, Inc.
Adv#: 6:18-01214 Pringle v. Histen, III

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#19.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01214. Complaint by John Pringle against Harry J Histen, APC, Harry J Histen, III. (Charge To Estate - \$350.00). Complaint for: (1) Avoidance of Transfers Pursuant to 11 U.S.C. § 544(b) and Cal. Civ. Code §§ 3439.04(a)(2), 3439.05; (2) Avoidance of Transfers Pursuant to 11 U.S.C. § 548(a)(1)(B); (3) Recovery of Avoided Transfers Pursuant to 11 U.S.C. § 550; and (4) Disallowance of Claims Pursuant to 11 U.S.C. § 502 Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Goe, Robert)

From: 1/9/19, 3/6/19, 5/8/19

EH__

Docket 1

***** VACATED *** REASON: DEFAULT JUDGMENT ENTERED 7/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Harry J Histen, III

Pro Se

Plaintiff(s):

John Pringle

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe

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CONT...

Home Security Stores, Inc.

Charity J Manee

Chapter 7

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6:19-15045 Howard Edward Terrell, Jr.

Chapter 7

#20.00 CONT Creditor, CA Home Buyers 247, LLC Motion to Dismiss Case with a Bar to Refiling

From: 7/31/19

EH ____

Docket 11

Tentative Ruling:

8/21/2019

BACKGROUND

Debtor Howard Terrell ("Debtor") filed a voluntary Chapter 7 Petition on June 10, 2019. Creditor California Home Buyers ("Creditor") filed this motion to dismiss with a one-year refiling bar on July 8, 2019.

Debtor was previously in Chapter 13 bankruptcy until January of 2018. Creditor alleges that Debtor and Creditor entered into a partnership during that bankruptcy, where Creditor would pay Debtor's mortgage arrears, and also pay for 6 months of Debtor's mortgage payments, as well as for the cost of home renovations, in return for a 50% interest in Debtor's home at 944 Randall Ranch Rd., Corona, CA, 92881 (the "Property"). At the end of the renovations, the Property would be sold and the proceeds split.

Creditor argues that he was fraudulently induced into this agreement by Debtor, who has allegedly intentionally delayed the renovation of the Property, and who has also failed to make mortgage payments, requiring Creditor to continue paying the Property's mortgage to prevent foreclosure. Creditor also alleges that Debtor has failed to make the financial contributions required under the agreement to meet the extra needs of the renovation. This was all part of an alleged scheme to continue living at the Property for free.

Creditor filed suit in state court on May 24, 2019, for breach of contract and fraud,

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CONT... Howard Edward Terrell, Jr. Chapter 7

among other causes of relief. Debtor, as noted above, filed for Chapter 7 relief on June 10. Due to the reasons stated above, Creditor alleges that Debtor's Chapter 7 petition was in bad faith, and that it should be dismissed with a one-year refiling bar. In addition, Creditor also argues that Debtor is a serial filer who has abused the bankruptcy system, as Debtor filed for Chapter 7 bankruptcy in October of 2009, with a discharge in March of 2010, and he also filed for Chapter 13 bankruptcy in April of 2017, which was dismissed in January of 2018 with a 180-day refiling bar.

Debtor filed his opposition on July 17, 2019. Debtor alleges that the delays in the project were caused by Creditor, who has total control over the rehabilitation project and hasn't been consulting with Debtor as to the work done on the home. In addition, Debtor notes that his Chapter 13 case was voluntarily dismissed in 2018 under the explicit requirements of the partnership agreement between him and Creditor, which required Debtor to dismiss his case.

DISCUSSION

11 U.S.C. § 707(b)(3)(a) allows a court to dismiss a case for abuse if it finds the case to have been filed in bad faith. Under § 349(a), the dismissal of a case can be with prejudice "for cause," which can result in a bar against refiling for a time period set by the court. Bad faith, as cause for dismissal, is based on four factors and judged under the totality of the circumstances. *See Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219, 1224 (9th Cir. 1999).

These factors are:

- 1- Whether the debtor misrepresented facts in his petition, or unfairly manipulated the Bankruptcy Code;
- 2- The debtor's history of filings and dismissals;
- 3- Whether the debtor only intended to defeat state court litigation;
- 4- Whether egregious behavior is present. *See Id.*

The Court will begin by noting that, contrary to Creditor's assertions, the Debtor's history of filings and dismissals is not prejudicial to the Debtor. The dismissal of Debtor's 2018 case was a voluntary dismissal, *as explicitly required by their partnership agreement*, and the 180-day bar against refiling was imposed as a product of this voluntary dismissal. Moreover, it does not appear Movant was a creditor in any prior bankruptcy.

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CONT... Howard Edward Terrell, Jr.

Chapter 7

The question then turns to whether Debtor has misrepresented facts in his petition, unfairly manipulated the Bankruptcy Code, or has engaged in egregious behavior.

Creditor's primary arguments of misrepresentation, unfair manipulation of the Code, and egregious behavior are all premised on Creditor's allegations as contained within his state court claim against Debtor. The one in-case example of misrepresentation is that Debtor has scheduled Creditor's claim as "unknown" instead of Creditor's claimed damages of \$498,471.59. Debtor claims he scheduled the claim as "unknown" because he didn't know the exact extent of Creditor's claim at the time, and this is backed by the fact that Creditor's state court claim did not request specific damages, only stating that Creditor had "at least \$480,000" in damages midway through its factual allegations.

The Court is disinclined to find that the scheduling of Creditor's claim as "unknown" as a misrepresentation. In addition, the Court does not find that the allegations of Debtor's pre-petition actions are sufficient to warrant dismissal, let alone dismissal with a bar against refiling. Rather, Movant is free to seek relief from stay to continue the state court action and file an adversarial proceeding to determine the dischargeability of the debt in question, as well as its total amount.

TENTATIVE RULING

8/21/2019

SERVICE: PROPER

OPPOSITION: YES

THE COURT IS INCLINED TO DENY MOVANT'S REQUEST.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Howard Edward Terrell Jr.

Represented By
John R Setlich

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Chapter 7

Movant(s):

CA Homebuyres 247 LLC

Represented By
Matthew Abbasi

Trustee(s):

Charles W Daff (TR)

Pro Se

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2:00 PM

6:18-20756 Karl W Detlefsen

Chapter 7

Adv#: 6:19-01057 Maslar v. Detlefsen

#21.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01057. Complaint by Jennifer Maslar against Karl W Detlefsen. willful and malicious injury))

From: 6/5/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Karl W Detlefsen

Represented By
Christopher Hewitt

Defendant(s):

Karl W Detlefsen

Pro Se

Plaintiff(s):

Jennifer Maslar

Represented By
Sanaz S Bereliani

Trustee(s):

Robert Whitmore (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#22.00 CONT Motion RE: Objection to Claim Number 11 by Claimant Natasha Reynoso and Mark Reynoso
HOLDING DATE

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18, 2/6/19, 4/17/19

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Movant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#23.00 CONT Status Conference RE: [13] Amended Complaint by Michael J Hemming on behalf of Mark & Natasha Reynoso against Anne Louise Goodman, Douglas Edward Goodman. (RE: related document(s)1 Adversary case 6:16-ap-01277. Complaint by Mark & Natasha Reynoso against Douglas Edward Goodman, Anne Louise Goodman. false pretenses, false representation, actual fraud) filed by Plaintiff Mark & Natasha Reynoso)
(Holding Date)

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18, 2/6/19, 4/17/19

Also #24

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By

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CONT... Douglas Edward Goodman

Edward T Weber

Chapter 13

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#24.00 Status Conference RE: [139] Crossclaim by Anne Louise Goodman, Douglas Edward Goodman against Theresa Mann, Jose Pastora (Weber, Edward)

Also #23

EH__

Docket 139

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

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Chapter 13

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6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#25.00 CONT Pre-Trial Conference RE: [19] Answer to Complaint and Affirmative Defenses to Complaint to Determine Dischargeability Pursuant to 11 U.S.C. § 523(a)(6) and COUNTERCLAIM of Shatara Adrienne Thompson for Defamation, Counterclaim by Robert Lee Thompson Jr, Shatara Adrienne Thompson against Beatriz M Gutierrez (Lampl, Robert)

From: 6/26/19

Also #26 - #28

EH__

Docket 19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

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CONT... Robert Lee Thompson, Jr.

Chapter 7

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#26.00 CONT Pre-Trial Conference RE: [1] Adversary case 6:18-ap-01052. Complaint by Beatriz M Gutierrez against Robert Lee Thompson Jr, Shatara Adrienne Thompson . willful and malicious injury))

From: 6/26/19

Also #25 - #28

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

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Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#27.00 Order to show cause why counter-complaint should not be dismissed for lack of prosecution

Also #25 - #28

EH ____

Docket 19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:17-20025 Robert Lee Thompson, Jr.

Chapter 7

Adv#: 6:18-01052 Gutierrez v. Thompson, Jr et al

#28.00 Motion In Limine, Declaration And Proposed Order To Prevent The Defendant(s) And Counter-Plaintiff From Introducing Any Undisclosed Witnesses, Witness Testimony, And Exhibits, Or In The Alternative, To Enter A Default Against The Defendant(s) And Counter-Plaintiff Without Prejudice, For Failure To Comply

Also #25 - #27

EH__

Docket 61

Tentative Ruling:

8/21/2019

BACKGROUND

On December 5, 2017, Robert & Shatara Thompson ("Defendants") filed a Chapter 7 voluntary petition. On March 19, 2018, Defendants received a discharge, and the case was subsequently closed.

On March 1, 2018, Beatriz Gutierrez ("Plaintiff") filed a non-dischargeability adversary complaint against Defendants. On April 2, 2018, Defendants filed a motion to dismiss, which was denied by the Court on May 3, 2018. On June 1, 2018, Defendants filed their answer.¹

On July 16, 2019, Plaintiff filed a motion in limine, generally seeking to preclude Defendants from introducing any undisclosed witnesses, witness testimony, and

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CONT...

Robert Lee Thompson, Jr.

Chapter 7

exhibits. The motion asserts that Defendants have: (1) "failed to provide any type of discovery, disclose any exhibits, and identify any witnesses"; (2) failed to cooperate in the preparation of a joint pre-trial stipulation; (3) failed to file a pre-trial stipulation. The motion also asserts that over a period of approximately fifteen months, Plaintiff repeatedly attempted to contact Defendants regarding discovery and required disclosures, but did not receive any meaningful response.

On August 6, 2019, Defendants filed an opposition to the motion in limine, and also filed a pre-trial statement. The Court notes that Defendant's opposition does not contain a declaration or any admissible evidence. On August 13, 2019, Plaintiff filed her reply.

DISCUSSION

FED. R. CIV. P. Rule 26 outlines the litigants' obligation to disclose certain information. FED. R. CIV. P. Rule 37(c)(1) states, in pertinent part:

If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless.

And the Ninth Circuit has recently stated:

The Federal Rules of Civil Procedure require parties to provide to other parties the name of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its claims or defenses. And a party who has made a disclosure under Rule 26(a) must supplement or correct its disclosure in a timely manner if the party learns that in some material respect the disclosure is incomplete or incorrect, and if the addition or corrective information has not otherwise been made known to the other parties during the discovery process or in writing. A party that does not timely identify a witness under Rule 26 may not use that

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CONT...

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witness to supply evidence at a trial unless the failure was substantially justified or is harmless. Indeed, Rule 37(c)(1) is intended to put teeth into the mandatory disclosure requirements of Rule 26(a) and (e).

Ollier v. Sweetwater Union High School Dist., 768 F.3d 843, 861 (9th Cir. 2014). Factors that the Court may consider include: "(1) the prejudice or surprise to the party against whom the testimony is offered; (2) the ability of the party to cure the prejudice; (3) the extent to which introducing such testimony would disrupt the trial; and (4) the moving party's bad faith or willfulness." *Woodworker's Supply, Inc. v. Principal Mut. Life Ins. Co.*, 170 F.3d 985, 993 (10th Cir. 1999).

Here, the evidence submitted in support of Plaintiff's motion establishes that Plaintiff took the initiative to seek discovery disclosures over a period of several months, and that Defendants did not provide the disclosures required by the FRCP. Defendants have offered no explanation to justify the non-disclosure, and the Court cannot conclude that the error is harmless. *See, e.g., Davis v. Green*, 2015 WL 3505665 at *3 (N.D. Ga. 2015) ("The Court also finds that the failure to disclose these witnesses is not harmless because Defendant Green did not having the opportunity to depose them and conduct proper discovery."); *see also Ollier*, 768 F.3d at 862-63 (outlining harm to adversarial system by non-compliance with disclosure requirements). And at this late stage of the proceeding – Defendants did not make any attempt to comply with the required disclosures or draft a pre-trial statement until more than a month after the pre-trial conference – further delay would severely disrupt the litigation schedule.

The Court also notes that while Defendants are currently *pro se*, Defendants have been represented by counsel during the majority of these adversary proceedings, including during the period when the discovery disclosures were due. Therefore, the current *pro se* status of Defendants has no bearing on their failure to comply with discovery disclosures.

Additionally, the Court notes that Plaintiff has alleged a failure to comply with Local Rule 7016 and FED. R. CIV. P. Rule 16 because Defendants failed to meaningfully participate or prepare for the pre-trial conference. Because Defendants were *pro se* at the time of the pre-trial conference, and noting that Defendants have since made some effort to fulfill their obligations under these rules, the Court finds Plaintiff's request for judgment or default to be entered against Defendants to not be appropriate. The Court does note, however, that the pre-trial conference was continued approximately sixty days for Defendants to seek new legal counsel or competent legal advice, and it does not appear that Defendants have taken advantage of the opportunity.

Tentative Ruling:

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The Court is inclined to GRANT the motion to the extent of precluding Defendants from introducing any witness or exhibits which were not timely disclosed.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Robert Lee Thompson Jr.

Represented By
Nicholas M Wajda

Defendant(s):

Robert Lee Thompson Jr

Represented By
Robert S Lampl

Shatara Adrienne Thompson

Represented By
Robert S Lampl

Joint Debtor(s):

Shatara Adrienne Thompson

Represented By
Nicholas M Wajda

Movant(s):

Beatriz M Gutierrez

Pro Se

Beatriz M Gutierrez

Represented By
Robert S Lampl

Plaintiff(s):

Beatriz M Gutierrez

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:18-12282 Frank Javier Valderrama

Chapter 7

Adv#: 6:18-01141 Carrillo v. Valderrama

#29.00 Order to show cause why complaint should not be dismissed for lack of prosecution

Also #30

EH__

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Defendant(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Plaintiff(s):

Jose Carrillo

Represented By
John F Bazan

Trustee(s):

Steven M Speier (TR)

Pro Se

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6:18-12282 Frank Javier Valderrama

Chapter 7

Adv#: 6:18-01141 Carrillo v. Valderrama

#30.00 CONT Status Conference RE: [36] Amended Complaint THIRD by John F Bazan on behalf of Jose Carrillo against Jose Carrillo

From: 4/10/19, 7/17/19

Also #29

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Defendant(s):

Frank Javier Valderrama

Represented By
Robert G Uriarte

Plaintiff(s):

Jose Carrillo

Represented By
John F Bazan

Trustee(s):

Steven M Speier (TR)

Pro Se

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6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01100 Zamucen & Curren LLP v. Johnson

#31.00 Motion to Dismiss Zamucen & Curren's Amended Objection to Debtor's Discharge

EH__

Docket 41

Tentative Ruling:

8/21/2019

BACKGROUND

On February 7, 2018, Vance Johnson ("Defendant") filed a Chapter 11 voluntary petition. On July 3, 2018, Defendant's case was converted to Chapter 7.

On May 1, 2018, Zamucen & Curren, LLP ("Plaintiff") filed a complaint against Defendant for objection to discharge. On July 2, 2018, the Court denied Defendant's motion to dismiss the complaint for failure to state a claim. On July 16, 2018, Defendant filed his answer.

On October 18, 2018, Plaintiff filed a pleading of uncertain nature (the "Pleading"). On the docket, the Pleading is identified as the "Amended Complaint to Debtor's Discharge of His Debts in Bankruptcy, Including Debtor's Domestic Support Obligation." The actual title of the Pleading, however, is "Creditor, Zamucen & Curren's Amended Objection to Debtor's Discharge of His Debts in Bankruptcy, Including Debtor's Domestic Support Obligation." The Court notes that, to the extent the Pleading was intended to operate as an amended complaint, the Pleading was filed far after the deadlines set forth in FED. R. CIV. P. Rule 15(a)(1) for amendments as a

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CONT... Vance Zachary Johnson

Chapter 7

matter of course, and was not done with leave of the Court or with consent of Defendant. The Pleading went unnoticed while the parties stipulation to the continuance of the status conference on five occasions.

On July 3, 2019, Defendant filed a request to dismiss the Pleading, but did not set the request for hearing. On July 10, 2019, Plaintiff filed an application shortening time, requesting that the Court not consider Defendant's motion at the July status conference; for a variety of technical and procedural issues, the Court denied the application.

On July 18, 2019, Defendant filed a second motion to dismiss the Pleading, this time setting the matter for hearing. On August 5, 2019, Plaintiff withdrew the Pleading.

DISCUSSION

Because Plaintiff did not file the Pleading within the time required by FED. R. CIV. P. Rule 15(a), and noting that Defendant did not consent to the late filing of an amended pleading, the Court presumes that the filing of the Pleading was of no effect, and that it was the burden of Plaintiff to seek leave of the Court to allow the Pleading.

Nevertheless, the Court notes that Plaintiff's withdrawal of the Pleading on August 5, 2019, renders the instant motion to strike the motion MOOT.

The Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

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CONT... Vance Zachary Johnson

Chapter 7

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Movant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Zamucen & Curren LLP

Represented By
Patricia J Grace

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

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6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01106 Bankers Healthcare Group, LLC v. Johnson

#32.00 Plaintiff's First Amended Motion For Summary Judgment

Also #33

EH ____

Docket 29

Tentative Ruling:

8/21/2019

PROCEDURAL BACKGROUND

On February 7, 2018, Vance Johnson ("Defendant") filed a Chapter 11 voluntary petition. On July 3, 2018, Defendant's case was converted to Chapter 7.

On May 7, 2018, Bankers Health Group, LLC ("Plaintiff") filed a non-dischargeability complaint against Defendant pursuant to 11 U.S.C. § 523(a)(2)(B), (a)(4), and (a)(6). On June 7, 2018, Defendant filed his answer. After the initial status conference, the Court entered a scheduling order on July 17, 2018. Subsequently, the parties stipulated to a continuance of the status conference, and an extension of certain dates in the scheduling order, on three occasions.

On June 24, 2019, Plaintiff filed a motion for summary judgment, and amended the motion four days later. On July 31, 2019, Defendant filed his opposition. Plaintiff's motion for summary judgment is limited to § 523(a)(2)(B) and (a)(6).

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CONT... Vance Zachary Johnson

Chapter 7

FACTUAL BACKGROUND

Defendant is or was the sole owner Temecula Valley Pain Medical Group, Inc. ("TVPMG"). On July 19, 2017, Johnson entered into a commercial loan on behalf of TVPMG for the amount of \$500,000 (the "Loan"). The Loan documentation included a statement of intended purpose which stated that the Loan was to be used for "practice expansion."

By September 2017, however, TVPMG started transitioning into a collection funded business. Ultimately, only five of the eighty-four scheduled payments were made on the Loan.

Plaintiff argues that TVPMG was not a stable, valuable, and successful business at the time the Loan was entered into, that Defendant knew the business was declining and had abandoned efforts to expand the business, and that Defendant spent the entirety of the Loan proceeds during 2017 to cover expenses of a "dying" business. Defendant argues in response that the financial information presented at the time of the Loan's execution was accurate and/or immaterial.

LEGAL STANDARD

Summary judgment should be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *See* FED. R. CIV. P. Rule 56(a) (incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7056).

The moving party has the burden of establishing the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). If the moving party shows the absence of a genuine issue of material fact, the nonmoving party must go beyond the pleadings and identify facts that show a genuine issue for trial. *Id.* at 324. The non-moving party "must do more than simply show that there is some

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metaphysical doubt as to the material fact..." *Matsushita Electrical Industry Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-587 (1986). The court must conduct its analysis viewing the evidence in the light most favorable to the nonmoving party. *Bell v. Cameron Meadows Land Co.*, 669 F.2d 1278, 1284 (9th Cir. 1982). All reasonable doubt as to the existence of a genuine issue of fact should be resolved against the moving party. *Hector v. Wiens*, 533 F.2d 429, 432 (9th Cir. 1976).

A fact is material if it "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); *see also Fresno Motors, LLC v. Mercedes Benz USA, LLC*, 771 F.3d 1119, 1125 (9th Cir. 2014). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.*

11 U.S.C. § 523(a)(2)(B) and (a)(6) state the following:

- (a) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt –
 - (2) for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by –
 - (B) use of a statement in writing –
 - (i) that is materially false;
 - (ii) respecting the debtor's or an insider's financial condition;
 - (iii) on which the creditor to whom the debtor is liable for such money, property, services or credit reasonably relied; and
 - (iv) that the debtor caused to be made or published with intent to deceive
 - (6) for willful and malicious injury by the debtor to another entity or to the property of another entity

Regarding 11 U.S.C. § 523(a)(2)(B), the Ninth Circuit has summarized the elements of a non-dischargeability claim as follows:

- (1) a representation of fact by the debtor;
- (2) that was material;
- (3) that the debtor knew at the time to be false;
- (4) that the debtor made with the intention of deceiving the creditor;
- (5) upon which the creditor relief;
- (6) that the creditor's reliance was reasonable;
- (7) that damage proximately resulted from the representation.

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In re Candland, 90 F.3d 1466, 1469 (9th Cir. 1996)

Here, Defendant disputes that Plaintiff has satisfied the second, third, and fourth elements.

Regarding 11 U.S.C. § 523(a)(6), the Ninth Circuit has stated the following:

Section 523(a)(6) of the Bankruptcy Code provides that an individual debtor may not discharge a debt for willful *and* malicious injury by the debtor to another entity or to the property of another entity. The malicious injury requirement is separate from the willful injury requirement. A "willful" injury is a deliberate or intentional *injury*, not merely a deliberate or intentional *act* that leads to injury. A "malicious" injury involves (1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse."

In re Barboza, 545 F.3d 702, 706 (9th Cir. 2008).

LEGAL ANALYSIS

A. *11 U.S.C. § 523(a)(2)(B)*

As outlined in paragraphs 10-15 of Plaintiff's statement of uncontroverted facts, Plaintiff alleges two different categories of representations which it asserts satisfy the § 523(a)(2)(B) standard: (1) that TVPMG was a stable, successful business; and (2) that the Loan was to be used for "practice expansion." The difficulty in fitting these allegations to the elements of a § 523(a)(2)(B) claim is rendered apparent by the operative paragraph of Plaintiff's brief, paragraph 21, which states, in pertinent part:

Johnson submitted the Johnson PFS, CFI, and the Statement of Intended Purpose to BHG to induce BHG to make the Loan. The Johnson PFS, CFI, and the Statement of Intended Purpose represented Johnson's financial condition and, in particular, his overall ability to generate income. Furthermore, while the Debtor represented to BHG that TVPMG was going to use the Loan Proceeds for "practice expansion," TVPMG did the exact opposite and retracted to focus solely on collections. Contrarily, TVPMG already tried and failed to expand in 2016, reimbursements were down, it was receiving 70% less per patient, and had a grim financial future. TVPMG was not a

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sustainable business at the time Johnson applied for the Loan. There can be no doubt that Johnson's statements to BHG in the Johnson PFS, CFI, and the Statement of Intended Purpose was false. Johnson represented in such documents that TVPMG was a stable, valuable, and successful business, with a positive financial future, and the ability to timely repay BHG. Furthermore, Johnson said he was obtaining a commercial loan for TVPMG for practice expansion. Instead, TVPMG did the opposite, it did not expand or attempt to expand, but transitioned to a collection only business.

Glaringly absent in the above excerpt is the presence of a particular, factual piece of information regarding financial condition which Plaintiff contends was false at the time TVPMG or Defendant made the representation. The various adjectives used by Plaintiff in characterizing TVPMG are of Plaintiff's own creation – nowhere in the loan documentation does Defendant assert that TVPMG was a "stable, valuable, and successful" business. And even if such a representation were made, such vague and ambiguous adjectives do not constitute factual representations.

Indeed, the declaration of Daniel Johnston submitted in support of the motion is more precise in its description. Paragraph 6 of the declaration states the following: "[t]he information Johnson presented in the Johnson PFS, CFI, and Statement of Intended Purpose led BHG to believe that Johnson's and TVPMG's overall ability to generate income was sufficient to approve the Loan." The distinction revealed above is illuminating: it was Plaintiff's belief that appeared to be erroneous, not the factual information in the loan documents themselves. Nowhere in Plaintiff's statement of uncontroverted facts does Plaintiff allege, let alone establish, that the inaccuracy of its conclusions about TVPMG was proximately caused by inaccurate financial information presented by TVPMG or Johnson.

Turning to the statement of intended purpose, there are significant issues with relying on Johnson's statement that the specific business reason he applied for the loan is "Practice Expansion." First, this statement of intended primary purpose is just that – a statement of *intended* purpose. While a statement of intent may certainly be false, as noted by Defendant, establishing intent is an issue not commonly resolved at the summary judgment stage. While it is undisputed that TVPMG began significantly decreasing its operating in September 2017, Defendant has offered an explanation for the change – "after the funding of the Loan, the effort to recruit spine surgeons was unsuccessful." [Dkt. No. 34, ¶ 13]. Viewing the evidence in the light most favorable to the non-moving party, the Court cannot conclude that Johnson did not intend to

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attempt to expand TVPMG at the time of the execution of the Loan.

But there is a more fundamental problem with the use of the statement of intended purpose as the basis for Plaintiff's § 523(a)(2)(B) claim. The first two subsections of § 523(a)(2)(B) require that a written statement must be: (1) materially false; and (2) **respecting the debtor's or an insider's financial condition**. Clearly, the personal financial statement and the company financial statement are statements about financial conditions, but Plaintiff's has failed to allege with any particularity that those statements are "materially false." And while Plaintiff has alleged that the statement of intended purpose is materially false, it not clear that that statement is a statement regarding "financial condition." *See generally Lamar, Archer & Cofrin, LLP v. Appling*, 138 S. Ct. 1752, 1761 (2018) ("We also agree that a statement is 'respecting' a debtor's financial condition if it has a direct relation to or impact on the debtor's overall financial status.") (extensively discussing the meaning of statement about financial condition); *see also In re Kosinski*, 424 B.R. 599 (B.A.P. 1st Cir. 2010) (profit/loss projection not a statement about financial condition because it did not represent either historical or present financial information).

For the reasons noted above, the Court cannot conclude that Plaintiff's has met its burden on its § 523(a)(2)(B) at the summary judgment stage. Specifically, the Court notes that the only representation which Plaintiff has specifically alleged to be false, is the representation regarding the statement of the intended loan purpose. This basis is inadequate to support judgment on the § 523(a)(2)(B) at this stage, because it necessarily invokes the intent of Debtor at the time of the Loan execution, and, taking the evidence in the light most favorable to the non-moving party, Defendant has raised a genuine issue of material fact regarding his state of mind. Furthermore, Plaintiff has not provided legal support for the contention that the statement regarding intended purpose of loan constitutes a statement regarding financial condition.

B. 11 U.S.C. § 523(a)(6)

As noted above, the Ninth Circuit has stated the following with regard to 11 U.S.C. § 523(a)(6):

Section 523(a)(6) of the Bankruptcy Code provides that an individual debtor may not discharge a debt for willful *and* malicious injury by the debtor to another entity or to the property of another entity. The malicious injury requirement is separate from the willful injury requirement. A "willful" injury is a deliberate or intentional *injury*, not merely a deliberate or intentional *act* that leads to injury. A "malicious"

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injury involves (1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse."

In re Barboza, 545 F.3d 702, 706 (9th Cir. 2008).

As noted by Defendant, in the Ninth Circuit, "an intentional breach of contract cannot give rise to non-dischargeability under § 523(a)(6) unless it is accompanied by conduct that constitutes a tort under state law." *Lockerby v. Sierra*, 535 F.3d 1038, 1040 (9th Cir. 2008). Earlier this month, the Bankruptcy Appellate Panel provided a helpful expansion of this principle:

There are at least two relevant ways a creditor may take a judgment consisting of damages for breach of contract and prove that it is nondischargeable under § 523(a)(6). The first would be to establish that the breach of contract also constituted a tort such as conversion that the debtor undertook willfully and maliciously within the meaning of § 523(a)(6). . . .

Alternatively, the creditor could prove a "tortious breach of contract." But to do so, the creditor would need to show not only tortious conduct, but also that the debtor's conduct violated "a **fundamental public policy** of the state."

In re Zeeb, 2019 WL 3778360 at *6 (B.A.P. 9th Cir. 2019) (citations and quotations omitted).

Plaintiff fails to argue that Defendant either committed tortious conduct under state law or that Debtor's conduct violated a fundamental public policy of the state. Furthermore, the only false representations which Plaintiff alleges that Defendant made with any particularity were regarding the statement of intended purpose of the loan. As more fully outlined above, the Court is hesitant to conclude that Defendant's failure to use the proceeds in accordance with a statement of *intended* purpose constitutes a tort or a breach of a fundamental public policy of California. Additionally, the Court has received conflicting evidence regarding the business intentions of Defendant at the time of entering into the Loan. When resolving this evidence in the light most favorable to the non-moving party, Defendant, the Court cannot conclude that Plaintiff has met its burden in demonstrating that Defendant had no intention of attempting to use the funds for expansion. And the Court has not been presented with any argument that later deviating from a statement of intended purpose would constitute tortious conduct under California law.

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CONT... Vance Zachary Johnson

Chapter 7

Tentative Ruling:

The Court is inclined to DENY the motion in its entirety.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Movant(s):

Bankers Healthcare Group, LLC

Represented By
Todd L Turoci

Plaintiff(s):

Bankers Healthcare Group, LLC

Represented By
Todd L Turoci

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

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6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01106 Bankers Healthcare Group, LLC v. Johnson

#33.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01106. Complaint by Bankers Healthcare Group, LLC against Vance Zachary Johnson. 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))

From: 7/10/18, 2/20/19, 4/24/19, 7/3/19, 7/17/19

Also #32

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Bankers Healthcare Group, LLC

Represented By
Todd L Turoci

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

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CONT... Vance Zachary Johnson

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Hearing Room 303

11:00 AM

6:17-12232 Margarito Martinez

Chapter 13

Adv#: 6:19-01051 Martinez v. Garza et al

#1.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01051. Complaint by Margarito Martinez against Cesar Emilo Garza, Noe Pelayo, George Arthur Macias, Flor Valladares, Henry Gonzalez, West Coast Realty, Inc., Grand Capital Group, M&M Associates. (Charge To Estate - \$350.00). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)))

From: 5/23/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Margarito Martinez

Represented By

Christopher J Langley

Defendant(s):

Cesar Garza

Pro Se

Noe Pelayo

Pro Se

George Arthur Macias

Pro Se

Flor Valladares

Pro Se

Henry Gonzalez

Pro Se

West Coast Plus Realty, Inc.

Pro Se

Grand Capital Group

Pro Se

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CONT... Margarito Martinez
M&M Associates

Pro Se

Chapter 13

Plaintiff(s):

Margarito Martinez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:16-14201 Donald Leslie Ogden and Susan Kay Ogden

Chapter 13

#2.00 Show Cause Hearing re Debtor's Certification of Compliance under 11 USC § 1328 (A) and Application for Entry of Discharge

EH__

Docket 59

***** VACATED *** REASON: CERTIFICATE OF COMPLIANCE FILED
8/13/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donald Leslie Ogden

Represented By
Timothy S Huyck

Joint Debtor(s):

Susan Kay Ogden

Represented By
Timothy S Huyck

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:17-13433 Christina Hill

Chapter 13

#3.00 Order to show cause re Chapter 13 Discharge

EH__

Docket 39

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christina Hill

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:17-19614 Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

#4.00 Application for Compensation for Andy C Warshaw, Debtor's Attorney, Period: 1/1/2018 to 4/11/2019, Fee: \$3640, Expenses: \$0.

EH__

Docket 90

***** VACATED *** REASON: HEARING ADVANCED TO 7/11/19 AT 11 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Joint Debtor(s):

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Movant(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-14277 Cesar Orozco

Chapter 13

#5.00 CONT Debtor's Motion to vacate dismissal order and reinstate Chapter 13 Case pursuant to F.R.C.P. 9023 and 11 U.S.C. Section 105

From: 8/1/19

EH ____

Docket 48

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/13/19**

Tentative Ruling:

8/1/2019

BACKGROUND

On May 21, 2008, Cesar Orozco ("Debtor") filed a voluntary Chapter 13 petition. On August 9, 2018, his Chapter 13 Plan was confirmed. On May 7, 2019, the Chapter 13 Trustee ("Trustee") filed a motion to dismiss Debtor's case for delinquency. On June 6, 2019, Trustee's motion to dismiss was granted. On June 28, 2019, Debtor filed a motion to vacate dismissal.

Debtor's case was dismissed due to a two-month delinquency in plan payments. Debtor's counsel alleges that Debtor fell behind because of a misunderstanding that the submission of a payment in January had made Debtor current on payments. Instead, Debtor was one month short, as a new payment had come due in late January. Debtor's counsel alleges that he attempted to reach Debtor prior to the hearing in June to address this problem, but was unable to do so due to Debtor having recently changed his cellphone number. Debtor now asserts that he has the funds to become current through the July plan payment.

Trustee filed a conditional acceptance of Debtor's motion to vacate dismissal on July 1, 2019. Trustee's conditions are that: 1- Debtor turns over \$1,784 to become current on plan payments, and 2- that Debtor submits his 2018 state and federal tax returns

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CONT... **Cesar Orozco**
and refunds to the Trustee.

Chapter 13

DISCUSSION

Debtor bases his argument for vacating dismissal on F.R.C.P. 60(b)(1) and (6), mistake and "any other reason justifying relief from the operation of the judgment," as well as the Court's inherent equitable powers under 11 U.S.C. § 105(a), and the error rule under F.R.C.P. 61 which permits the setting aside of a judgment if to not do so otherwise would be inconsistent with substantial justice.

The problem with Debtor's arguments is that: 1- the Court did not make an error under FRCP 61, the Debtor did, and 2- Debtor's counsel did not make an error under FRCP 60(b)(1). Debtor was serially delinquent on plan payments within a few months of the confirmation of his plan, and this was the core root of the dismissal, not neglect or mistake by his counsel or the Court.

However, in light of Trustee's conditional acceptance of Debtor's motion, the Court is inclined to find grounds to vacate its dismissal of Debtor's case under the "any other reason" language of F.R.C.P. 60(b)(6) and its inherent equitable powers under 11 U.S.C. § 105(a). If Debtor has the funds to become current on plan payments, and is prepared to turn over his tax returns and refund, then the Court finds that vacating dismissal would not cause an undue prejudicial impact to his creditors.

TENTATIVE RULING

8/1/2019

SERVICE: PROPER

OPPOSITION: NONE

THE COURT IS INCLINED TO GRANT THIS MOTION UNDER FRCP 60(B)(6) AND 11 U.S.C. § 105.

APPEARANCES REQUIRED.

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CONT... Cesar Orozco

Chapter 13

Party Information

Debtor(s):

Cesar Orozco

Represented By
Paul Y Lee

Movant(s):

Cesar Orozco

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-18809 Heinrich Franz Brinkmann

Chapter 13

#6.00 Motion to Reconsider (related documents 93) Order on Motion For Sanctions/Disgorgement

CASE DISMISSED 8/19/19

EH__

Docket 97

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-19093 Yolanda Williams

Chapter 13

#7.00 Application for Compensation with proof of service for Dana Travis, Debtor's Attorney, Period: to, Fee: \$960.00, Expenses: \$.

EH__

Docket 48

Tentative Ruling:

8/22/2019

Application: \$960 for resolution of motion for relief from stay by stipulation (no opposition and no hearing)

Opposition: Trustee recommends \$600

Analysis: 11 U.S.C. § 330(a)(3) (2005) provides factors to be considered in determining the reasonableness of requested compensation.

I note that the application was not served on all creditors. The application requests less than \$1,000, however, and it is customary that we only review Trustee's comments on requests less than \$1,000.

Tentative:

On October 26, 2018, Yolanda Williams ("Debtor") filed a Chapter 13 voluntary petition. On January 11, 2019, Debtor's Chapter 13 plan was confirmed.

On July 23, 2019, Debtor's counsel, Dana Travis ("Counsel") filed an application requesting an additional \$960 in fees relating to a motion for relief from stay (the "RFS Motion") filed by U.S. Bank National Association ("Creditor"). Trustee's comments, filed August 6, 2019, recommend approval of a reduced amount of \$600

Creditor filed the RFS Motion on May 20, 2019. No opposition was filed by

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CONT...

Yolanda Williams

Chapter 13

Debtor. On June 18, 2019, Debtor and Creditor stipulated to an adequate protection agreement, which was entered by the Court on the same day – one week prior to the scheduled hearing.

While the adequate protection agreement entered into by Debtor appears to be a routine adequate protection agreement, the fee application of Counsel seems to indicate that there was some dispute about Debtor's payment history or whether payments were applied properly. Because Debtor never filed an opposition to the motion for relief from the automatic stay, the Court does not have information regarding the details of that dispute.

Nevertheless, the Court does not consider the relatively *de minimis* time spent resolving the dispute, whatever its nature, to be unreasonable. In all, it appears Counsel made three phone calls related to Debtor's payment history, for which a total of .7 hours were billed. Nevertheless, the Court is inclined to disallow fees related to the preparation of an opposition to the motion to dismiss. This opposition was prepared eighteen days before it was due and was never filed with the Court. Additionally, it is unclear why the opposition was not filed with the Court because, from the filing records of Counsel, it does not appear a adequate protection stipulation was reached with Creditor until six days after the opposition deadline.

The Court is inclined to APPROVE fees in the amount of \$840 and DISAPPROVE the remaining \$120.

APPEARANCES REQUIRED. Applicant may decline to appear and will be deemed to submit to the tentative.

Party Information

Debtor(s):

Yolanda Williams

Represented By
Dana Travis

Movant(s):

Yolanda Williams

Represented By
Dana Travis
Dana Travis

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CONT... Yolanda Williams

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Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-20737 Alfredo N Adriano

Chapter 13

#8.00 Order to show cause why Alon Darvish should not be sanctioned

CASE DISMISSED 3/14/19

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfredo N Adriano

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-11370 Michael Wright

Chapter 13

#9.00 Motion for Order to Disallow Claim #3 of PYOD, LLC

Also #10

EH ____

Docket 34

Tentative Ruling:

8/22/19

BACKGROUND:

On February 22, 2019, Michael Wright ("Debtor") filed a Chapter 13 voluntary petition. On May 24, 2019, Debtor's Chapter 13 plan was confirmed.

On March 22, 2019, PYOD LLC ("PYOD") filed a proof of claim for an unsecured claim in the amount of \$6,219.54 ("Claim 3"). On April 5, 2019, American Express National Bank ("American Express") filed a proof of claim for an unsecured claim in the amount of \$10,274.43 ("Claim 12").

On July 15, 2019, Debtor objected to Claim 3 and Claim 12. Amended claim objections were filed on July 17, 2019. Debtor argues that both Claim 3 and Claim 12 are barred by the statute of limitations.

APPLICABLE LAW:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

CONT... Michael Wright

Chapter 13

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

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CONT... Michael Wright

Chapter 13

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 3 is based on money loaned, and the supporting documentations suggests that Claim 3 fits within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of September 13, 2012. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 3 is unenforceable.

Claim 12 is based on a credit card debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of March 2009. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 12 is unenforceable.

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CONT... Michael Wright

Chapter 13

Furthermore, the Court deems the failure to oppose by PYOD and American Express to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to SUSTAIN the objections, DISALLOWING Claim 3 and Claim 12 in their entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Wright

Represented By
Terrence Fantauzzi

Movant(s):

Michael Wright

Represented By
Terrence Fantauzzi
Terrence Fantauzzi
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-11370 Michael Wright

Chapter 13

#10.00 Motion for Order to Disallow Claim #12 of American Express National Bank

Also #9

EH ____

Docket 35

Tentative Ruling:

8/22/19

BACKGROUND:

On February 22, 2019, Michael Wright ("Debtor") filed a Chapter 13 voluntary petition. On May 24, 2019, Debtor's Chapter 13 plan was confirmed.

On March 22, 2019, PYOD LLC ("PYOD") filed a proof of claim for an unsecured claim in the amount of \$6,219.54 ("Claim 3"). On April 5, 2019, American Express National Bank ("American Express") filed a proof of claim for an unsecured claim in the amount of \$10,274.43 ("Claim 12").

On July 15, 2019, Debtor objected to Claim 3 and Claim 12. Amended claim objections were filed on July 17, 2019. Debtor argues that both Claim 3 and Claim 12 are barred by the statute of limitations.

APPLICABLE LAW:

**United States Bankruptcy Court
Central District of California
Riverside
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CONT... Michael Wright

Chapter 13

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; see also *Holm*, 931 F.2d at 623.

ANALYSIS:

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Central District of California
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CONT... Michael Wright

Chapter 13

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 3 is based on money loaned, and the supporting documentations suggests that Claim 3 fits within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of September 13, 2012. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 3 is unenforceable.

Claim 12 is based on a credit card debt. This appears to fit within the category established by CAL. CODE CIV. P. § 337. Therefore, the statute of limitations is four years. The proof of claim identifies a last payment date of March 2009. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 12 is unenforceable.

**United States Bankruptcy Court
Central District of California
Riverside
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11:00 AM

CONT... Michael Wright

Chapter 13

Furthermore, the Court deems the failure to oppose by PYOD and American Express to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to SUSTAIN the objections, DISALLOWING Claim 3 and Claim 12 in their entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Wright

Represented By
Terrence Fantauzzi

Movant(s):

Michael Wright

Represented By
Terrence Fantauzzi
Terrence Fantauzzi
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#11.00 Motion RE: Objection to Claim Number 4 by Claimant PYOD LLC

Also #12 & #13

EH__

Docket 34

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/21/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Movant(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Elizabeth M Swartz

Represented By
Joseph A Weber
Joseph A Weber
Fritz J Firman
Fritz J Firman

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Thursday, August 22, 2019

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CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#12.00 Motion RE: Objection to Claim Number 5 by Claimant Specialized Loan Servicing LLC

Also #11 & #13

EH ___

Docket 30

Tentative Ruling:

8/22/2019

BACKGROUND:

On April 15, 2019, Mark & Elizabeth Swartz ("Debtors") filed a Chapter 13 voluntary petition. On June 21, 2019, The Bank of New York Mellon f/k/a The Bank of New York as successor Indenture trustee to JPMorgan Chase Bank, National Association for CWHEQ Revolving Home Equity Loan Trust, Series 2006-F ("Creditor") filed a proof of claim for a secured claim in the amount of \$157,959.06 ("Claim 5").

On July, 2019, Debtors filed an objection to Claim 5. Debtors argue that the information filed in support of Claim 5 is inadequate pursuant to the Federal Rules of Bankruptcy Procedure, and that, as a result, Creditor has failed to meet its burden of proof.

APPLICABLE LAW:

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CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

Local Rule 3007-1(b)(2) provides that a "claim objection must be served on the

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Central District of California
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CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

claimant at the address disclosed by the claimant in its proof of claim and at such other addresses and upon such parties as may be required by FRBP 7004 and other applicable rules. Here, the claim objection states that it was served at "8749 Lucent Blvd." rather than at the address listed on Claim 5, "8742 Lucent Blvd."

TENTATIVE RULING

The Court is inclined to CONTINUE the matter for proper service on Creditor.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Movant(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Elizabeth M Swartz

Represented By
Joseph A Weber
Joseph A Weber
Fritz J Firman
Fritz J Firman

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

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11:00 AM

CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#13.00 CONT Confirmation of Chapter 13 Plan

From: 7/11/19

Also #11 & #12

EH __

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13314 Tamra Gillian Rehak

Chapter 13

#14.00 CONT Confirmation of Chapter 13 Plan

From: 7/11/19

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tamra Gillian Rehak

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13374 Michael Arthur Eidsvoog and Kathryn Michelle Eidsvoog Chapter 13

#15.00 CONT Confirmation of Chapter 13 Plan

From: 7/11/19

EH __

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Arthur Eidsvoog

Represented By
Todd L Turoci

Joint Debtor(s):

Kathryn Michelle Eidsvoog

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13514 Michael Ray Sandoval

Chapter 13

#16.00 CONT Confirmation of Chapter 13 Plan

From: 7/11/19

EH __

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Ray Sandoval

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13651 Juan Manuel Robles

Chapter 13

#17.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Manuel Robles

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13691 Alicia M Smith

Chapter 13

#18.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alicia M Smith

Represented By
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13760 J Jesus Hernandez Flores and Flora Hernandez

Chapter 13

#19.00 CONT Motion for Setting Property Value

From: 8/1/19

Also #20

EH__

Docket 18

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/21/19**

Tentative Ruling:

8/1/2019

BACKGROUND

On April 30, 2019, Jesus and Flora Hernandez Flores ("Debtors") filed a voluntary petition for Chapter 13 bankruptcy. On June 5, 2019, Debtors filed a motion to value their 2016 Toyota RAV4 (the "Property"). The Property is currently subject to a \$22,732 lien held by Altura Credit Union ("Creditor"). The motion did not contain any evidence of the Property's value. On July 12, 2019, Debtors filed a supplemental to their motion, containing a Carmax appraisal of the Property, which establishes the amount for which Carmax would purchase the Property.

Creditor filed an opposition on July 30, 2019. In it, Creditor claims that Debtors' motion to value the property is in violation of 11 U.S.C. § 1325(a)(9), which does not permit the reduction of a secured claim stemming from a purchase money security interest incurred within a 910-day period prior to the petition date for the purchase of a motor vehicle acquired for a Debtors' personal use.

DISCUSSION

First, the Court begins by noting that Debtors' first motion did not contain any evidence to support their claimed valuation of the Property. Instead, Creditor only received 19 days' notice of such an integral part of Debtors' motion through the

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CONT... **J Jesus Hernandez Flores and Flora Hernandez** **Chapter 13**

supplemental filed on July 12, 2019. While not fatal, the Court still finds this to be improper notice of the motion.

As to the merits, one of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

However, a Chapter 13 plan cannot be confirmed with a § 506(a) claim bifurcation under § 1325(a)(5) if the claim being bifurcated is: (1)- a purchase money security interest, (2) incurred for the purchase of a motor vehicle, (3) acquired for the Debtors' personal use, (4) that was taken out 910 days prior to the Chapter 13 petition. Here, Creditor is the holder of a purchase money security interest for a vehicle acquired for the Debtors' personal use which was taken out 584 days prior to the petition date, as the retail installment contract was entered into by Debtors on September 23, 2017. As such, claim bifurcation is not available within this case for the Property. Even if it was, Debtors also failed to submit proper evidence of the Property's value.

Assuming, arguendo, that § 1325(a)(5) did not apply, the Ninth Circuit has not presently established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtors have submitted a Carmax appraisal of the vehicle, which gave an appraisal offer of \$12,500. This appears to completely miss the goal of valuation. Value under *Morales* is meant to establish what a retail merchant would *charge* when selling the Property, not what a retail merchant would *purchase* the Property for. Debtors have provided the purchase price, which will almost certainly be substantially lower than the sale price, cutting against the Creditor's interests.

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Thursday, August 22, 2019

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11:00 AM

CONT... J Jesus Hernandez Flores and Flora Hernandez

Chapter 13

TENTATIVE RULING

8/1/2019

SERVICE: PROPER

OPPOSITION: YES

The Court is inclined to DENY Debtors' motion to value the Property due to it being in contravention of the restrictions on claim bifurcation under § 1325(a)(5).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

J Jesus Hernandez Flores

Represented By
Jenny L Doling

Joint Debtor(s):

Flora Hernandez

Represented By
Jenny L Doling

Movant(s):

J Jesus Hernandez Flores

Represented By
Jenny L Doling
Jenny L Doling
Jenny L Doling

Flora Hernandez

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13760 J Jesus Hernandez Flores and Flora Hernandez

Chapter 13

#20.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19

Also #19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

J Jesus Hernandez Flores

Represented By
Jenny L Doling

Joint Debtor(s):

Flora Hernandez

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13768 Daniel Ray Love and Fatin Badawi Love

Chapter 13

#21.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Ray Love

Represented By
Raj T Wadhvani

Joint Debtor(s):

Fatin Badawi Love

Represented By
Raj T Wadhvani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-13855 Noel Guerrero Avalos and Veronica Cellular De Avalos

Chapter 13

#22.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Noel Guerrero Avalos

Represented By
Todd L Turoci

Joint Debtor(s):

Veronica Cellular De Avalos

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14268 Christopher Monroe and Aysheh Spicer

Chapter 13

#23.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Monroe

Represented By
Paul Y Lee

Joint Debtor(s):

Aysheh Spicer

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14276 Jacques Vashonne Powers

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jacques Vashonne Powers

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14325 Martin Ontiveros

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martin Ontiveros

Represented By
Allan O Cate

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14344 Jose G. Rodriguez

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose G. Rodriguez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14363 Oscar Ricardo Chavez

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/7/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Ricardo Chavez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14403 Jacqueline Mason McDuffy

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/27/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jacqueline Mason McDuffy

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14412 Jesus Antonio Palomares and Claudia Heredia Palomares

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus Antonio Palomares Pro Se

Joint Debtor(s):

Claudia Heredia Palomares Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14450 Pedro Lopez

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/10/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pedro Lopez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14472 Briana Farquharson

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/10/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Briana Farquharson

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14557 Martha Rubicela Ochoa

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martha Rubicela Ochoa

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14560 Raymond Norman Lauzon and Pamela Ann Lauzon

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Raymond Norman Lauzon

Represented By
Dana Travis

Joint Debtor(s):

Pamela Ann Lauzon

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14576 Sarah Mace Abbott

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sarah Mace Abbott

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14585 Byron Tal Bagget

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Byron Tal Bagget

Represented By
William G Cort

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14586 Jose Luis Garcia and Yanira Valdez

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Luis Garcia

Represented By
Daniel King

Joint Debtor(s):

Yanira Valdez

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14623 Erlwin E Williams

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Erlwin E Williams

Represented By
Laleh Ensafi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14634 William Edward Wall, Jr.

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William Edward Wall Jr.

Represented By
Ronald W Ask

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14651 Edward G. Roberts

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 7/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edward G. Roberts

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14670 Karla Salvante Altar

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Karla Salvante Altar

Represented By
Rex Tran

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14679 Martin Garcia Arias

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martin Garcia Arias

Represented By
Edgar P Lombera

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14684 Ryan Kolakowski

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Kolakowski

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14735 Trinen Arniese Pratt

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Trinen Arniese Pratt

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-14759 Andrew Venegas

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrew Venegas

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-16193 La Toya J. Calvin

Chapter 13

#45.00 Motion for Setting Property Value 2014 Mercedes E350

EH__

Docket 10

Tentative Ruling:

8/22/19

BACKGROUND

On January 13, 2019, Maisha Ghant-Elie ("Debtor") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2014 Mercedes E350 (the "Property"). Pursuant to Schedule D, Navy Federal Credit Union ("Creditor") holds a security interest in the Property. On July 29, 2019, Creditor filed a proof of claim in the amount of \$39,746.07, identifying \$10,932 as secured by the Property ("Claim 5"). The Court notes, however, that while Creditor filled out the security information in the proof of claim form, Creditor also checked the box stating that the claim was wholly unsecured. As a result, the claim register in this case identifies Claim 5 as an unsecured claim.

On July 19, 2019, Debtor filed a motion to value the Property. Debtor asserts that the Property should be valued at \$10,932.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

CONT... La Toya J. Calvin

Chapter 13

the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

Presently, the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Kelly Blue Book report identifying the private party value of the Property. Pursuant to the above discussion, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom.

However, as Creditor and Debtor apparently agree that the value of the Property is \$10,932, and because the Court deems Creditor's non-opposition to be consent to the relief requested, the Court is inclined to GRANT the motion, valuing the Property at \$10,932, with a resulting general unsecured claim in the amount of \$28,814.07

APPEARANCES REQUIRED.

Party Information

Debtor(s):

La Toya J. Calvin

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

CONT... La Toya J. Calvin

Chapter 13

Patricia M Ashcraft

Movant(s):

La Toya J. Calvin

Represented By
Patricia M Ashcraft
Patricia M Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:00 AM

6:19-16298 Juan Antonio Clement and Karen Lynn Clement

Chapter 13

#46.00 Motion to Avoid Junior Lien with Aspen Properties Group, LLC

EH__

Docket 13

Tentative Ruling:

8/21/2019

The Court is inclined to CONTINUE the matter to allow Creditor adequate time to conduct an appraisal of the subject real property.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Juan Antonio Clement

Represented By
Todd L Turoci

Joint Debtor(s):

Karen Lynn Clement

Represented By
Todd L Turoci

Movant(s):

Juan Antonio Clement

Represented By
Todd L Turoci

Karen Lynn Clement

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:14-22362 James Lange and Michelle Lange

Chapter 13

#47.00 Trustee's Motion to Dismiss Case

EH__

Docket 180

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Lange

Represented By
Michael Smith
Sundee M Teeple
Craig K Streed

Joint Debtor(s):

Michelle Lange

Represented By
Michael Smith
Sundee M Teeple
Craig K Streed

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:16-10257 Cecilia Orozco and Sergio Orozco

Chapter 13

#48.00 CONT Trustee's Motion to Dismiss Case

From: 5/9/19, 7/11/19

EH__

Docket 51

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cecilia Orozco

Represented By
Majid Safaie
Manfred Schroer

Joint Debtor(s):

Sergio Orozco

Represented By
Majid Safaie
Manfred Schroer

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:16-11151 Jeanne Marie Jackson

Chapter 13

#49.00 Trustee's Motion to Dismiss Case

EH ____

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeanne Marie Jackson

Represented By
D Justin Harelik

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:16-16946 Elliott Howard Blue, Jr and Yvette Blue

Chapter 13

#50.00 Trustee's Motion to Dismiss Case

EH__

Docket 89

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elliott Howard Blue Jr

Represented By
Michael E Clark
Barry E Borowitz

Joint Debtor(s):

Yvette Blue

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:16-18082 Joseph John Vargas and Lydia Vargas

Chapter 13

#51.00 CONT Trustee's Motion to Dismiss Case

From: 8/1/19

EH__

Docket 130

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph John Vargas

Represented By
Dana Travis

Joint Debtor(s):

Lydia Vargas

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:16-18125 Marc Meisenheimer

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH__

Docket 79

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marc Meisenheimer

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:16-19890 Rick Gaeta Carreon

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 117

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rick Gaeta Carreon

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:16-20163 Sandra M. Hankins

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH__

Docket 81

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sandra M. Hankins

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:17-15660 Guillermina Perez

Chapter 13

#55.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Guillermina Perez

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:17-16439 Oscar Avila

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 77

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Avila

Represented By
Sanaz S Bereliani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:17-19890 Katrina Renee McDowell

Chapter 13

#57.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19; 6/27/19

EH__

Docket 57

***** VACATED *** REASON: CONTINUED TO 9/19/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Katrina Renee McDowell

Represented By
Jenny L Doling

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:17-20147 Gilbert Richard Enriquez and Lisa Lynn Enriquez

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH ____

Docket 57

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/21/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gilbert Richard Enriquez

Represented By
Raj T Wadhvani

Joint Debtor(s):

Lisa Lynn Enriquez

Represented By
Raj T Wadhvani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-11924 Don Gurule and Elaine Gurule

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 59

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Don Gurule

Represented By
Christopher Hewitt

Joint Debtor(s):

Elaine Gurule

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-12550 Nicolas E Magana

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicolas E Magana

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-14467 Jose M. Cortez

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH__

Docket 34

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose M. Cortez

Represented By
Patricia A Mireles

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-14868 Michael J Soriano

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael J Soriano

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-15220 Peter Ruiz

Chapter 13

#63.00 CONT Trustee's Motion to Dismiss Case

From: 8/1/19

EH__

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Peter Ruiz

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-15343 Jennifer Isabella Solares

Chapter 13

#64.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Isabella Solares

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-16178 Eriberto A. Sandoval

Chapter 13

#65.00 Trustee's Motion to Dismiss Case

EH__

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eriberto A. Sandoval

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-16681 Melissa Cheryl Ron

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH__

Docket 31

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
7/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melissa Cheryl Ron

Represented By
Nima S Vokshori

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-16804 Adam Brian Britt and Kenya Lashawn Britt

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Adam Brian Britt

Represented By
Scott Kosner

Joint Debtor(s):

Kenya Lashawn Britt

Represented By
Scott Kosner

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-17597 David Meisland

Chapter 13

#68.00 CONT Trustee's Motion to Dismiss Case

From: 8/1/19

EH ____

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Meisland

Represented By
Nima S Vokshori

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:18-18739 Heather Gibson

Chapter 13

#69.00 CONT Trustee's Motion to Dismiss Case

From: 7/11/19

EH ____

Docket 39

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heather Gibson

Represented By
Natalie A Alvarado

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:19-10669 Michael Anthony Delgado, III

Chapter 13

#70.00 CONT Trustee's Motion to Dismiss Case

From: 8/1/19

EH ____

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Anthony Delgado III

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:19-11371 Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

#71.00 Trustee's Motion to Dismiss Case

EH__

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Warren Alan Hall

Represented By
Lionel E Giron

Joint Debtor(s):

Kelly Suzanne Hall

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:19-11757 Virginia Ann Bennett

Chapter 13

#72.00 Trustee's Motion to Dismiss Case

EH__

Docket 42

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Virginia Ann Bennett

Represented By
Lionel E Giron
Crystle Jane Lindsey

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, August 22, 2019

Hearing Room 303

11:01 AM

6:19-11792 Clifford Leon Parks

Chapter 13

#73.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Clifford Leon Parks

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:15-18212 Michael Joseph Slowinski

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15470 Legendary Drive, Moreno Valley, CA 92555

MOVANT: WELLS FARGO BANK, NATIONAL ASSOCIATION

EH__

Docket 83

Tentative Ruling:

8/27/2019

Service is Proper

Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michael Joseph Slowinski

Pro Se

Movant(s):

Wells Fargo Bank, National

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:16-15914 Maria Aurora Chaidez Grajeda

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Dodge Ram 1500 Quad Cab SLT 1C6RR6GG7HS651216

MOVANT: CONSUMER PORTFOLIO SERVICES, INC.

From: 7/30/19

EH _____

Docket 43

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Maria Aurora Chaidez Grajeda

Represented By
Nicholas Nicholas Wajda

Movant(s):

Consumer Portfolio Services, Inc.

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:17-11132 Jose V Arredondo

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5754 Felspar Street, Riverside, CA 92509-4903

MOVANT: WILMINGTON SAVINGS FUND SOCIETY, FSB

From: 5/28/19, 6/25/19, 7/30/19

EH__

Docket 47

***** VACATED *** REASON: ORDER ENTERED 8/5/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose V Arredondo

Represented By
Benjamin A Yrungaray

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kelsey X Luu
Sean C Ferry
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:17-17575 Terry Neil Gaia and Tamara Marie Devalle-Gaia

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 33657 Emerson Way Unit B AKA 33657 Emerson Way, Temecula, CA 92592

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

EH__

Docket 32

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Terry Neil Gaia

Represented By
Edward G Topolski

Joint Debtor(s):

Tamara Marie Devalle-Gaia

Represented By
Edward G Topolski

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

CONT...

Terry Neil Gaia and Tamara Marie Devalle-Gaia

Chapter 13

Sean C Ferry

Theron S Covey

Eric P Enciso

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:17-18230 Ricardo Munoz and Roseann Munoz

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1554 N Helen Ct, Ontario, California 91762

MOVANT: J.P. MORGAN MORTGAGE ACQUISITION CORP

EH__

Docket 44

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ricardo Munoz

Represented By
Michael E Clark

Joint Debtor(s):

Roseann Munoz

Represented By
Michael E Clark

Movant(s):

J.P. Morgan Mortgage Acquisition

Represented By
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:18-10456 David Allen Rose, Jr. and Karen Sue Rose

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 20798 Brana Rd, Riverside, CA 92508

MOVANT: THE BANK OF NEW YORK MELLON TRUST CO., N.A.

EH__

Docket 47

***** VACATED *** REASON: ORDER ENTERED 8/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Allen Rose Jr.

Represented By
Dana Travis

Joint Debtor(s):

Karen Sue Rose

Represented By
Dana Travis

Movant(s):

The Bank of New York Mellon Trust

Represented By
Jennifer C Wong
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:18-11924 Don Gurule and Elaine Gurule

Chapter 13

#7.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13343 Chaparral Road, Whitewater, CA 92282

MOVANT: NATIONSTAR MORTGAGE LLC

From: 6/25/19

EH ____

Docket 54

*** VACATED *** REASON: CONTINUED TO 10/1/19 AT 11:00 A.M.

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of the arrears, as well as negotiations as to an adequate protection order, if needed.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Don Gurule

Represented By
Christopher Hewitt

Joint Debtor(s):

Elaine Gurule

Represented By
Christopher Hewitt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

CONT... Don Gurule and Elaine Gurule

Chapter 13

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Angie M Marth
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:18-12170 Pamela Ann Harris

Chapter 13

#8.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1939 Prince Albert Drive, Riverside, CA 92507

MOVANT: SELECT PORTFOLIO SERVICING INC.

From: 7/16/19, 8/20/19

EH__

Docket 84

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the negotiations for an adequate protection order.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Pamela Ann Harris

Represented By
Halli B Heston

Movant(s):

Wilmington Trust, NA, successor

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

CONT... Pamela Ann Harris

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:18-12822 Cynthia Miller

Chapter 13

#9.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15036 Daffodil Circle, Fontana, CA 92336

MOVANT: WILMINGTON TRUST, NATIONAL ASSOCIATION

From: 7/16/19

EH ____

Docket 62

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of negotiations as to an adequate protection order.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Cynthia Miller

Represented By
Richard L Barrett

Movant(s):

Wilmington Trust, National

Represented By
Dipika Parmar
Jennifer C Wong

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

CONT... Cynthia Miller

Nancy L Lee

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:18-14123 Daniel Alvarado Ramirez and Elvia Lena Ramirez

Chapter 13

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 TOYOTA SIENNA

MOVANT: TOYOTA LEASE TRUST

EH__

Docket 44

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Daniel Alvarado Ramirez

Represented By
Dana Travis

Joint Debtor(s):

Elvia Lena Ramirez

Represented By
Dana Travis

Movant(s):

TOYOTA LEASE TRUST

Represented By
Erica T Loftis Pacheco

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

CONT... Daniel Alvarado Ramirez and Elvia Lena Ramirez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:18-18739 Heather Gibson

Chapter 13

#11.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6375 Lime Road, Phelan, CA 92371

MOVANT: LAKEVIEW LOAN SERVICING, LLC

From: 7/30/19

EH ____

Docket 42

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: Yes

Debtor to apprise the Court of the status of sale efforts, and parties to apprise the Court of the status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Heather Gibson

Represented By
Natalie A Alvarado

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:18-19368 Salvador Marquez

Chapter 13

#12.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11468 Caraway Court, Fontana, CA 92337

MOVANT: JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

From: 6/9/19, 7/30/19

EH__

Docket 29

***** VACATED *** REASON: ORDER ENTERED 8/8/19**

Tentative Ruling:

7/9/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT waiver of Rule 4001 stay. GRANT requests under ¶¶ 2,3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Salvador Marquez

Represented By
Todd L Turoci

Movant(s):

JPMorgan Chase Bank, National

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

CONT... Salvador Marquez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:18-19956 Herman A. Wendorff and Monica Wendorff

Chapter 13

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 NISSAN ROGUE, VIN # JN1BJ1CP4JW164907

MOVANT: NISSAN MOTOR ACCEPTANCE CORPORATION

EH__

Docket 46

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Herman A. Wendorff

Represented By
Daniel King

Joint Debtor(s):

Monica Wendorff

Represented By
Daniel King

Movant(s):

NISSAN MOTOR ACCEPTANCE

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

CONT...

Herman A. Wendorff and Monica Wendorff

Michael D Vanlochem

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:18-20759 Elida Soto

Chapter 13

#14.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13692 Bedford Place, Victorville, CA 92392

MOVANT: NATIONS DIRECT MORTGAGE, LLC

From: 7/30/19

EH ____

Docket 40

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Elida Soto

Represented By
William G Cort

Movant(s):

NATIONS DIRECT MORTGAGE,

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-11371 Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 8893 Orange Street, Rancho Cucamonga, CA 91701

MOVANT: U.S. BANK NATIONAL ASSOCIATION

CASE DISMISSED 8/22/19

EH__

Docket 72

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: Yes

Debtors had a previous bankruptcy case dismissed on November 15, 2018. Therefore, pursuant to the operation of 11 U.S.C. § 362(c)(3), the automatic stay in this CASE, absent order of the Court, was to expire on March 24, 2019. While Debtors did file a motion to continue the automatic stay, that motion, after a continuance, was ultimately denied by the Court. Therefore, the automatic stay expired on March 24, and the Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Warren Alan Hall

Represented By
Lionel E Giron

Joint Debtor(s):

Kelly Suzanne Hall

Represented By
Lionel E Giron

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

CONT... Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

Movant(s):

U.S. Bank National Association, as

Represented By
Gilbert R Yabes
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-13037 Hong Song and XiaoTao Zhai

Chapter 13

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Chevrolet Camaro, VIN: 1G1FB1RX2H0111647

MOVANT: ACAR LEASING LTD

EH__

Docket 39

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: None

11 U.S.C. § 365(p)(1) provides for the automatic termination of the automatic stay with respect to a lease of personal property which is rejected or not timely assumed. Here, Debtors' Chapter 13 plan rejected the lease with Movant. Therefore, the automatic stay has already been terminated, and the Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Hong Song

Represented By
Jonathan J. Lo
Michael Y Lo

Joint Debtor(s):

XiaoTao Zhai

Represented By
Jonathan J. Lo
Michael Y Lo

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

CONT... Hong Song and XiaoTao Zhai

Chapter 13

Movant(s):

ACAR Leasing LTD d/b/a GM

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-14344 Jose G. Rodriguez

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13347 Chamiso St, Victorville, CA 92392

MOVANT: NATIONSTAR MORTGAGE LLC

CASE DISMISSED 8/22/19

EH__

Docket 19

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jose G. Rodriguez

Represented By
Christopher J Langley

Movant(s):

Nationstar Mortgage LLC, d/b/a Mr.

Represented By
Angie M Marth
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-15189 Karl Eastin and Sarah Eastin

Chapter 7

#18.00 Amended Motion (related document(s): 11 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 RAM 1500 VIN 1C6RREBT9KN680138

MOVANT: SANTANDER CONSUMER USA INC

EH__

Docket 13

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Karl Eastin

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Sarah Eastin

Represented By
Terrence Fantauzzi

Movant(s):

Santander Consumer USA Inc. dba

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

CONT... Karl Eastin and Sarah Eastin

Chapter 7

Jennifer H Wang

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-15534 Xavier Mayagoitia Ramirez and Ana Janeth Ramirez

Chapter 7

#19.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1147 W Grove Street, Rialto, CA 92376

MOVANT: NATIONSTAR MORTGAGE LLC

EH__

Docket 11

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: None

Debtors had a previous bankruptcy case dismissed on August 23, 2018. Therefore, pursuant to the operation of 11 U.S.C. § 362(c)(3), and noting that Debtors did not file a motion to continue the automatic stay, the automatic stay in this case terminated on July 25, 2019. Therefore, the Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Xavier Mayagoitia Ramirez

Represented By
Michael H Colmenares

Joint Debtor(s):

Ana Janeth Ramirez

Represented By
Michael H Colmenares

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
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Courtroom 303 Calendar**

Tuesday, August 27, 2019

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11:00 AM

CONT... Xavier Mayagoitia Ramirez and Ana Janeth Ramirez

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-16003 Carlos Garnica, Jr.

Chapter 7

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 650 N Teakwood Ave, Rialto, CA 92376

MOVANT: BROKER SOLUTIONS, INC.

EH__

Docket 13

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1).
GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Carlos Garnica Jr.

Represented By
Andrew Nguyen

Movant(s):

Broker Solutions, Inc. dba New

Represented By
Nathan F Smith

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-16210 Edward Joey Mish, Jr

Chapter 13

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 12476 13th St, Yucaipa 92399

MOVANT: EDWARD & WENDY SOUSA, AS TRUSTEES OF THE SOUSA REVOCABLE FAMILY TRUST

EH__

Docket 20

Tentative Ruling:

8/27/2019

Service is Improper

Opposition: None

As a preliminary note, the Court notes that notice and service of the motion are improper. Local Rule 4001-1(c)(1)(A) requires service to be made on the "debtor *and* debtor's attorney (if any)" (emphasis added). Judge Houle's self-calendaring instructions require telephonic notice to be given to all parties entitled to receive notice. Here, Movant has not given Debtor telephonic notice of the hearing and, therefore, notice is improper. Furthermore, the Court notes that Movant does not appear to have served Debtor with the motion via overnight mail, and, therefore, it is unclear whether Debtor would have received the underlying motion at least five court days prior to the hearing.

On the merits, the Court notes that there are issues with several of the requests made by Movant. First, Movant requests relief from the § 1301(a) co-debtor stay, yet there has not been service on any co-debtor. Second, Movant requests confirmation that no stay is in effect, yet the relevant subsections identified in the motion, § 362(b)(22) and (23), do not appear applicable to this case. Third, Movant requests annulment of the automatic stay to validate the unlawful detainer judgment, yet Movant has not provided a declaration or any detailed evidence in support of its request. The Court notes that Movant was listed in the originally creditor mailing matrix, and it is unclear

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11:00 AM

CONT... Edward Joey Mish, Jr Chapter 13

why Movant would not have been aware of the bankruptcy for twenty-seven days.

For the above reasons, the Court is inclined to DENY the motion without prejudice.

APPEARANCES REQUIRED

Party Information

Debtor(s):

Edward Joey Mish Jr

Represented By
Matthew D Resnik

Movant(s):

Edward & Wendy Sousa As Trustees

Represented By
William E Windham

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-16603 Stephanie Jimenez

Chapter 7

#22.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 6781 Dusty Trail Road, Eastvale, CA

MOVANT: YANMING DU

EH__

Docket 8

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1).
GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES REQUIRED

Party Information

Debtor(s):

Stephanie Jimenez

Represented By
Brian J Soo-Hoo

Movant(s):

Yanming Du

Represented By
Helen G Long

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-16611 Vincent James Carabba

Chapter 13

#23.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: VINCENT CARABBA

EH__

Docket 10

Tentative Ruling:

8/27/2019

Service: Proper
Opposition: None

The Court having reviewed the motion, notice being proper, and good cause appearing, the Court is inclined to GRANT the motion, CONTINUING the automatic stay as to all creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Vincent James Carabba

Represented By
Christopher J Langley

Movant(s):

Vincent James Carabba

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-16791 Robert Joseph Slapp, III

Chapter 13

#24.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 34119 Galleron St., Temecula, CA 92592

MOVANT: ROBERT JOSEPH SLAPP, III

EH__

Docket 9

Tentative Ruling:

8/27/2019

Service: Improper

Opposition: None

The Court is inclined to DENY the motion on the following two grounds. First, the motion was not served on the affected secured creditor pursuant to FED. R. BANKR. P. Rule 7004 as required by Judge Houle's procedures. Second, the Court notes that the evidence provided by Debtor is inadequately detailed, and therefore does not constitute the clear and convincing evidence required to rebut the presumption of bad faith arising under 11 U.S.C. § 362(c)(3)(C)(i)(II)(aa).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Robert Joseph Slapp III

Represented By
Nicholas Nicholas Wajda

Movant(s):

Robert Joseph Slapp III

Represented By
Nicholas Nicholas Wajda
Nicholas Nicholas Wajda

**United States Bankruptcy Court
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11:00 AM

CONT... Robert Joseph Slapp, III

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, August 27, 2019

Hearing Room 303

11:00 AM

6:19-16926 Zakiyyah Johnson-Salaam

Chapter 13

#25.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 37625 Early Ln., Murrieta, CA 92563

MOVANT: AARON D. WEINFIELD AND SHELITA C. WEINFIELD TRUSTEES OF THE WEINFIELD FAMILY TRUST, DATED DECEMBER 7, 2004

EH__

Docket 9

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief pursuant to 11 U.S.C. § 362(d)(2) for lack of cause shown. Specifically, Movant has not provided adequate evidence to demonstrate that Debtor's principal residence is not necessary to an effective reorganization. DENY request for relief from § 1301(a) stay because no co-debtor was served with this motion. GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Zakiyyah Johnson-Salaam

Pro Se

Movant(s):

Aaron D. Weinfield and Shelita C.

Represented By
Scott Andrews

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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11:00 AM

CONT... Zakiyyah Johnson-Salaam

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, August 27, 2019

Hearing Room 303

2:00 PM

6:17-15717 AMJ Plumbing Specialists Corp.

Chapter 11

#26.00 CONT Post Confirmation Status Conference

From: 12/18/18, 4/16/19, 5/28/19, 6/25/19

EH__

Docket 161

***** VACATED *** REASON: CASE CLOSED 8/15/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

AMJ Plumbing Specialists Corp.

Represented By
David Lozano

**United States Bankruptcy Court
Central District of California
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Tuesday, August 27, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#27.00 CONT First Interim Fee Application of Terzian Law Group, A Professional Corporation, Attorney for Debtor and Debtor in Possession for Tamar Terzian, Debtor's Attorney, Period: 7/23/2018 to 6/15/2019, Fee: \$57487.50, Expenses: \$3178.12.

From: 7/16/19

EH __

Docket 160

***** VACATED *** REASON: CONTINUED TO 10/29/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
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Tuesday, August 27, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#28.00 (Jointly Administered - LEAD CASE - 19-13127 MH)

Motion To Compel Assumption Or Rejection Of Defaulted Unexpired Lease Of Personal Property; For Adequate Protection And Maintenance Payments Pursuant To 11 U.S.C. §365(d)(5); And For Relief From Stay In Event Of Rejection Of Lease

EH__

Docket 134

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Financial Services Vehicle Trust

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
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Wednesday, August 28, 2019

Hearing Room 303

11:00 AM

6:17-10724 Bausman and Company Incorporated

Chapter 7

#1.00 Application for Compensation Final Fee Application of Procopio, Cory, Hargreaves & Savitch LLP For Allowance and Payment of Compensation and Reimbursement of Expenses as General Debtor-in-Possession Counsel for William A Smelko, Debtor's Attorney, Period: 1/31/2017 to 9/27/2017, Fee: \$116065.7, Expenses: \$4052.09.

EH__

Docket 196

Tentative Ruling:

Application: \$120,117.79 in total, reflecting \$116,065.70 in fees and \$4,052.09 in costs (\$17,750.00 already paid from a retainer, leaving \$102,367.79 remaining to be paid).

Opposition: None.

Analysis: 11 U.S.C. § 330(a)(3) (2005) provides factors to be considered in determining the reasonableness of requested compensation.

Background

Debtor Bausman and Company, Inc. ("Debtor") filed their voluntary Chapter 11 petition on January 30, 2017. On July 3, 2017, having been unable to reorganize, Debtor filed a motion to voluntarily convert their Chapter 11 case to one under Chapter 7. On September 27, 2017, the Court entered an order converting the case to one under Chapter 7, and appointing a Chapter 7 Trustee.

Debtor filed a motion to employ Procopio, Cory, Hargreaves & Savitch ("Counsel") as Chapter 11 bankruptcy counsel on February 14, 2017, and the Court approved the motion via order entered on May 9, 2017. Debtor was employed from January 31, 2017 through September 27, 2017, as counsel for Debtor.

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11:00 AM

CONT...

Bausman and Company Incorporated

Chapter 7

On June 30, 2017, Counsel filed their first interim application for compensation of fees and expenses for the period of January 31, 2017 through June 26, 2017. The Court approved the interim application via order entered on September 22, 2019, in the reduced amount of \$96,565.70 in fees and \$3,936.82 in expenses, with permission to draw upon the \$17,750 received as a retainer for payment, but nothing else.

On December 1, 2017, the Court entered an order authorizing the employment of Best, Best, and Krieger as counsel for the Chapter 7 trustee.

On December 20, 2017, Counsel filed their second and final application for compensation of fees and expenses, for the period of June 27, 2017 through September 27, 2017. Per stipulation with the Chapter 7 Trustee, Counsel's fees and expenses were to be treated as a second interim application, and Counsel was to seek final allowance and payment of compensation at the conclusion of the case. However, Counsel was not to be required to refile the application for final compensation with the Court, rather, Counsel was to file a declaration requesting that the application from December 20, 2017 be treated as a final application. The stipulation concerning the treatment of the application was approved via order entered by the Court on January 4, 2019. On February 5, 2019, the Court approved Counsel's second interim application for compensation of fees and expenses in the reduced amount of \$13,675.50 in fees and the full amount of \$115.27 in expenses, for a reduced total amount of \$13,789.77.

On June 28, 2019, the Chapter 7 Trustee filed their notice to professionals to file applications for compensation.

On July 17, 2019, Counsel filed their final application for compensation of fees and expenses for the period between January 31, 2017 and September 27, 2017. The application requests a combined \$116,065.70 in final fees and \$4,052.09 in final expenses, for a combined final total of \$120,117.79. This includes the \$10,045.55 reduction ordered by the Court in the first interim fee application. Of this amount, \$102,367.79 remains to be paid, following the application of the \$17,750 retainer towards payment, as originally approved by the Court in its order approving the first application for compensation.

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CONT... **Bausman and Company Incorporated**

Chapter 7

Counsel is not seeking payment for their requested compensation at this time, rather they are seeking an administrative claim against the Chapter 7 estate in the amount of the approved compensation.

Analysis

Pursuant to 11 U.S.C. § 330(a)(1), the court may award reasonable compensation for actual, necessary services. The court has an independent duty to review the fee application in the absence of objections. *See* 11 U.S.C. § 330(a)(2). The court "will not indulge in extensive labor and guesswork to justify a fee for an attorney who has not done so himself." *In re Taylor*, 66 B.R. 390 (Bankr. W.D. Pa. 1986).

11 U.S.C. § 330(a)(3) provides factors to be considered in determining the reasonableness of requested compensation. These factors include time spent, rates charged, necessity of the service, reasonableness of the service, expertise of attorney, and comparable market rates.

The Court begins by noting that it has already previously reviewed the fees and expenses requested within this final application when it reviewed the first and second interim fee applications filed by Counsel. The combined total from the two orders approving the interim fee applications in reduced amounts was \$114,292.29, reflecting a combined \$110,240.20 in fees and \$4,052.09 in expenses. By contrast, here Debtor is requesting a combined total of \$120,117.79, reflecting \$116,065.70 in combined fees and \$4,052.09 in combined expenses. The discrepancy between the two combined totals, that of the two ordered amounts and that of the final application, is because Counsel included in its request a \$5,827.50 reduction in fees ordered by the Court when it approved the second application for compensation. In contrast, Counsel has excluded for its request the \$10,045.55 reduction in fees ordered as part of the Court's approval of the first application for compensation.

The question becomes whether the Court is inclined to change its finding as to the fees requested for the services performed in the period of June 27, 2017, through September 27, 2017. The original reduction was incurred due to the Court's disinclination to grant fees incurred in Counsel's defense of its first fee application, for travel time to a hearing on Debtor's conversion motion which

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CONT...

Bausman and Company Incorporated

Chapter 7

would not have been needed had Counsel properly followed the local bankruptcy rules, and for a sale motion which caused the delay in conversion of the case to one under Chapter 7 for two months, but was eventually never filed. Upon a second review of the fees requested, and the services performed, especially those for which the Court originally denied the fees requested, the Court is not inclined to change its original opinion. As such, it is inclined to maintain its \$5,827.50 reduction in fees.

As for Counsel's request for reimbursement of \$4,052.09 in expenses, the Court maintains its findings that Counsel properly accounted for its expenses in its original motions, and that those expenses were necessary and reasonable. As such, the Court is inclined to maintain its original granting of a combined \$4,052.09 in expenses in its two orders on Counsel's interim fee applications.

The Court notes that Counsel is not requesting payment of their approved compensation at this time, barring final approval of the previous payment made to the firm in the amount of \$17,750 from the pre-petition retainer, as approved by the Court in its September 22, 2017, order approving the first interim fee application. Instead, Counsel is requesting authorization to receive a Chapter 11 administrative expense claim. The Court is instead inclined to grant Counsel a Chapter 7 administrative expense claim, against Debtor's current Chapter 7 estate.

Tentative Ruling:

8/20/2019

Service: Proper

Opposition: None.

The Court is inclined to GRANT Movant's final application for compensation and allow fees and expenses in the reduced amount of \$110,240.20 in fees and \$4,052.09 in expenses, for a total in the reduced amount of \$114,292.29. GRANT final approval and authorization of the allowance of the previous payments made to Counsel in the amount of \$17,750 from the pre-petition retainer to be applied to the total post-petition amounts owed to Counsel. GRANT the request authorizing

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CONT... Bausman and Company Incorporated Chapter 7

Counsel to receive an allowed Chapter 7 Administrative Expense claim against Debtor's Chapter 7 estate in the amount the \$96,542.29 in total compensation for fees and expenses that remain to be paid.

APPEARANCES REQUIRED, or, if Movant agrees with the reduction, Movant's appearance is waived and Movant will be deemed to consent to the tentative ruling.

Party Information

Debtor(s):

Bausman and Company Incorporated	Represented By William A Smelko
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Movant(s):

Bausman and Company Incorporated	Represented By William A Smelko
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Trustee(s):

Robert Whitmore (TR)	Represented By Best Best & Krieger Caroline Djang
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**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Wednesday, August 28, 2019

Hearing Room 303

11:00 AM

6:18-20343 Willie Clay Johnson and Dianna Marie Johnson

Chapter 7

#2.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 35

Tentative Ruling:

ANALYSIS

Upon review of the Trustee's services, the Court finds that the statutory maximum is a reasonable request in this matter. Trustee has requested \$1,316.57 based on a disbursement of \$5,665.68. This is both a correct calculation of the compensable funds disbursed, as well as the statutory maximum fees allowed. As such, the Court is inclined to grant Trustee's request for \$1,316.57 in fees.

The Court has reviewed Trustee's accounting of his expenses in the amount of \$208.05 and finds them reasonable.

TENTATIVE RULING

Date: 8/28/2019
Opposition: None
Service: Proper

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,316.57
Trustee Expenses: \$ 208.05

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CONT... Willie Clay Johnson and Dianna Marie Johnson

Chapter 7

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Willie Clay Johnson

Represented By
Edgar P Lombera

Joint Debtor(s):

Dianna Marie Johnson

Represented By
Edgar P Lombera

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, August 28, 2019

Hearing Room 303

11:00 AM

6:19-15007 Robert Wayne Young

Chapter 7

#3.00 Motion For Order Compelling Turnover Of Real Property Pursuant To 11 U.S.C. § 542(a)

EH__

Docket 19

Tentative Ruling:

MOTION FOR TURNOVER

NO OPPOSITION

BACKGROUND

On June 8, 2019, Robert Young ("Debtor") filed his voluntary Ch. 7 petition. Within Debtor's schedules, Debtor disclosed his possession of a home at 734 Grassy Meadow Dr., San Jacinto, CA 92825 (the "Property"), with a scheduled stated value of \$324,000. Debtor has claimed a \$100,000 exemption in the property under Cal. Civ. Code § 704.730. The Property is burdened by scheduled debts totaling \$206,681 representing the 1st Mortgage held by Darrington Mortgage in the amount of \$180,000 and the 2nd Mortgage held by Novad Management Consulting LLC/HUD in the amount of \$55,681.00. There is also a scheduled lien for solar panels in the amount of \$40,000 which is held by Clean Energy Ygrene. None of those parties have yet filed claims in the case.

On August 1, 2019, the Chapter 7 Trustee ("Trustee") filed this motion for turnover of the Property, on the basis of their belief that there may be equity within the Property. Trustee did not file any additional evidence or explanation in support of their motion, besides a statement that they were informed and believed that there was net equity in the estate. In addition, Trustee also declared that Debtor and Debtor's counsel had been uncooperative in preparing the Property for a potential future sale.

DISCUSSION

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11:00 AM

CONT... Robert Wayne Young

Chapter 7

Trustee filed his motion for turnover under § 542 with the stated intent of selling the Property under § 363(f). The benefit of the Property to the estate is thus the net equity which could be obtained through such a sale. However, the Trustee has not put forward any evidence of net equity in the property, besides a statement that they were informed and believed there was. This appears to be referring to Debtor's schedules.

Upon review of Debtor's schedules, it is unclear if net equity exists in the Property at this time. Debtor's Schedule A lists the value of the Property as \$324,000, and his Schedule D lists the combined mortgages burdening the Property as \$206,681. His Schedule D also lists a \$40,000 lien for solar panels which likely further burden the Property. In addition, Debtor has also claimed a \$100,000 exemption pursuant to Cal. Civ. Code § 704.730 in the equity in the Property in his Schedule C. This adds up to a total of \$366,681 in potential encumbrances and claims on the equity of the Property, whose value is currently listed at \$324,000.

TENTATIVE RULING

8/28/2019

SERVICE: PROPER

OPPOSITION: NONE.

While the Court understands the frustration of the Trustee as to Debtor's failure to cooperate with the potential marketing and sale of the Property, the Court is inclined to find that more evidence is needed at this time as to whether there is any net equity in the Property to warrant turnover.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Robert Wayne Young

Represented By
Cynthia A Dunning

**United States Bankruptcy Court
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CONT... Robert Wayne Young

Chapter 7

Movant(s):

Karl T Anderson (TR)

Represented By
Robert P Goe
Ryan S Riddles

Trustee(s):

Karl T Anderson (TR)

Represented By
Robert P Goe
Ryan S Riddles

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11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#4.00 CONT Motion by Chapter 7 Trustee for Order Approving Equity Buy Back Agreement
(HOLDING DATE)

From: 12/5/18, 1/30/19, 4/10/19, 5/29/19, 6/5/19

Also #5 - #8

EH__

Docket 24

*** VACATED *** REASON: CONTINUED TO 9/18/19 AT 2:00 P.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

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Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#5.00 CONT Application to Employ BHHS Perrie Mundy Realty Group as Real Estate Broker / Agent Declaration of Perrie Mundy in support
(HOLDING DATE)

From: 1/30/19, 4/10/19, 5/29/19, 6/5/19

Also #4 - #8

EH__

Docket 27

***** VACATED *** REASON: CONTINUED TO 9/18/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#6.00 CONT Motion for Objection to Claim of Exemptions by Debtor, Julie Lynn Salazar
(HOLDING DATE)

From: 1/16/19, 1/30/19, 4/10/19, 5/29/19, 6/5/19

Also #4 - #8

EH__

Docket 30

***** VACATED *** REASON: CONTINUED TO 9/18/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, August 28, 2019

Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#7.00 CONT Chapter 7 Trustee's Motion to Approve Global Compromise Between Estate, Debtor, and Winegardner Masonry
(Only as to Commission)

From: 6/5/19

Also #4 - #8

EH__

Docket 65

***** VACATED *** REASON: ORDER ENTERED 6/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, August 28, 2019

Hearing Room 303

11:00 AM

6:18-17177 Julie Lynn Salazar

Chapter 7

#8.00 CONT Chapter 7 Trustee's Motion for Order: (1) Establishing Conditions and Procedures for Dismissal of Case Under 11 U.S.C. Section 707(a); and (2) Approving Payment of Creditor Claims and Administrative Fees
(Only as to Commission)

From: 6/5/19

Also #4 - #7

EH__

Docket 67

***** VACATED *** REASON: CONTINUED TO 9/18/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

#9.00 Plaintiff's Motion for Protective Order Under F.R.C.P. Rule 26(c)

Also #10

EH__

Docket 313

Tentative Ruling:

BACKGROUND

Narinder Sangha ("Defendant") filed a voluntary petition for Chapter 7 bankruptcy on April 18, 2013. Plaintiff Charles Schrader ("Plaintiff") filed a complaint against Defendant on April 25, 2013, seeking for a determination of nondischargeability of debt due to "willful and malicious" injury under 11 U.S.C. § 523(a)(6). Plaintiff holds a claim against Defendant based on a \$1.4 million state court default judgment against Defendant for defamation related to Plaintiff's attempt to seek employment with the City of San Jose's fire department.

The Court entered summary judgment on Plaintiff's behalf on July 8, 2014, finding that there was no issue of material fact that Defendant had "willfully and maliciously" injured Plaintiff on the grounds of issue preclusion. This was based on a finding that the state court had awarded punitive damages in its judgment against Defendant, and that punitive damages in relation to defamatory conduct required malice in fact under California law. The Bankruptcy Appellate Panel reversed the Court's granting of summary judgment on June 11, 2015, finding that intent to injure could not be inferred from a finding of malice in fact under California law, and that the state court's failure to give specific grounds for the punitive damages prevented the Court from automatically inferring that the punitive damages were granted due to Defendant's intent to injure the Plaintiff.

The 9th Circuit of Appeals affirmed the B.A.P. decision on February 24, 2017, and remanded the matter to the Court for a decision on whether the default judgment and the allegations in Plaintiff's second amended complaint precluded prelitigation of whether the injury caused by Defendant had been "willful and malicious" under § 523(a)(6).

**United States Bankruptcy Court
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

CONT... Narinder Sangha

Chapter 7

On March 15, 2019, the Court entered partial summary judgment in favor of the Plaintiff, finding that the issue of whether Defendant had "maliciously" injured Plaintiff was precluded by the state court judgment, while also holding that Plaintiff was not entitled to summary judgment as to whether Defendant had "willfully" injured Plaintiff.

On June 28, 2019, Defendant served a defective subpoena on the City of San Jose. On July 12, 2019, Defendant re-served the subpoena on the City of San Jose, with a compliance date of July 31, 2019.

On July 31, 2019, Plaintiff filed a motion for protective order under F.R.C.P. Rule 26(c) to quash the subpoena on the City of San Jose. Plaintiff argues that the subpoena is overly broad and protected by the deliberative process and official information privileges held by the City of San Jose.

Defendant filed his opposition to Plaintiff's motion on August 14, 2019. Defendant argues that Plaintiff does not have standing under Rule 26(c) to challenge the subpoena, or to raise the privileges held by the City of San Jose.

Plaintiff filed his reply on August 21, 2019, without response to the issues of standing.

DISCUSSION

F.R.C.P. R. 26 is incorporated into Bankruptcy adversarial proceedings through F.B.R.P. R. 7026. F.R.C.P. R. 26(c) permits a party or any person from whom discovery is sought to move for a protective order. Plaintiff seeks a protective order to quash a subpoena issued to the City of San Jose. The City of San Jose has not moved to oppose the subpoena themselves. As he is not the person from whom discovery is sought, Plaintiff lacks standing under F.R.C.P. R. 26(c) to move for a protective order. *See R. Prasad Indus. V. Flat Irons Envtl. Solutions Corp.* 2014 U.S. Dist. LEXIS 84193 at *24-25 (D. Ariz. 2014) (holding that only parties from whom discovery is sought can file a motion under F.R.C.P. 26(c) for a protective order). In addition, Plaintiff lacks standing to raise privileges on behalf of another party who has not chosen to raise them themselves.

TENTATIVE RULING

8/28/2019

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

CONT... Narinder Sangha

Chapter 7

SERVICE: PROPER

OPPOSITION: YES

THE COURT IS INCLINED TO DENY PLAINTIFF'S REQUEST FOR A PROTECTIVE ORDER UNDER F.R.C.P. R. 26(C).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Donald Reid
Charity J Manee

Movant(s):

Charles Edward Schrader

Pro Se

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

#10.00 CONT Status Conference RE: [1] Adversary case 6:13-ap-01171. Complaint by Charles Edward Schrader against Narinder Sangha . willful and malicious injury))

From: 4/17/19, 5/22/19

Also #9

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Donald Reid
Charity J Manee

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Adv#: 6:15-01308 Cisneros v. BWI CONSULTING, LLC et al

#11.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01308. Complaint by A. Cisneros against BWI CONSULTING, LLC, Black and White, Inc., BLACK AND WHITE BILLING COMPANY, BLACK AND WHITE INK, MEHRAN DEVELOPMENT CORPORATION. (Charge To Estate \$350). for Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other))

From: 1/13/16, 3/23/16, 5/25/16, 7/27/16, 8/31/16, 11/2/16, 2/1/17, 5/3/17, 9/13/17, 12/13/17, 2/14/18, 5/16/18, 6/11/18, 8/22/18, 11/28/18, 2/27/19, 5/29/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

BWI CONSULTING, LLC	Pro Se
Black and White, Inc.	Pro Se
BLACK AND WHITE BILLING	Pro Se
BLACK AND WHITE INK	Pro Se
MEHRAN DEVELOPMENT	Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, August 28, 2019

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2:00 PM

CONT... Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Plaintiff(s):

A. Cisneros

Represented By
D Edward Hays
Chad V Haes

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat
Adv#: 6:15-01303 Cisneros v. AMERICAN EXPRESS

Chapter 7

#12.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01303. Complaint by A. Cisneros against AMERICAN EXPRESS. (Charge To Estate \$350). For Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))

From: 12/30/15, 1/13/16, 3/23/16, 5/25/16, 6/29/16, 8/31/16, 11/2/16, 2/1/17, 5/3/17 9/13/17, 12/13/17, 2/14/18, 5/16/18, 6/11/18, 8/22/18, 11/28/18, 2/27/19, 5/29/19

EH__

Docket 1

*** VACATED *** REASON: CONTINUED TO 11/20/19 AT 2:00 P.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

AMERICAN EXPRESS

Represented By
Robert S Lampl
Chad V Haes

Plaintiff(s):

A. Cisneros

Represented By
D Edward Hays
Chad V Haes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

CONT... Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

**United States Bankruptcy Court
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#13.00 Pre-Trial Conference RE: [40] Amended Complaint (Second) by Franklin R Fraley Jr on behalf of Revere Financial Corporation against Bank of Southern California, N.A.. (RE: related document(s)1 Adversary case 6:16-ap-01199. Complaint by Revere Financial Corporation against Bank of Southern California, N.A.. (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other))

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:18-17663 Stephen Richard Morales

Chapter 7

Adv#: 6:18-01242 Forniss et al v. Morales et al

#14.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01242. Complaint by Steven John Forniss against Stephan Richard Morales, Diane Forniss Morales, Todd Turoci. 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)) (Firman, Fritz)

From: 3/6/19, 3/13/19, 5/22/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Richard Morales

Represented By
Todd L Turoci

Defendant(s):

Stephan Richard Morales

Pro Se

Diane Forniss Morales

Pro Se

Joint Debtor(s):

Diane Forniss Morales

Represented By
Todd L Turoci

Plaintiff(s):

Stephen Forniss

Represented By
Fritz J Firman

Alfonso Forniss

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
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2:00 PM

CONT... Stephen Richard Morales

Fritz J Firman

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:18-12440 Paul Pound

Chapter 7

Adv#: 6:18-01147 Lloyd v. Pound

#15.00 CONT Status Conference RE: Complaint by April Lloyd against Paul M Pound. 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

From: 9/5/18, 11/14/18, 12/5/18, 1/16/19, 2/6/19, 3/27/19, 5/29/19

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 7/17/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Pound

Represented By
Todd L Turoci

Defendant(s):

Paul M Pound

Represented By
Todd L Turoci

Plaintiff(s):

April Lloyd

Represented By
Chane Buck

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:19-01080

United States Trustee for the Central District of v. Bastorous et al

#16.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01080. Complaint by United States Trustee for the Central District of California, Region 16 against Mark Bastorous, Bernadette Shenouda. (Fee Not Required). with adversary cover sheet Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Green, Everett)

From: 7/17/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

United States Trustee for the Central

Represented By
Everett L Green

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Wednesday, August 28, 2019

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2:00 PM

CONT... Mark Bastorous

Chapter 7

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01114 David M. Goodrich, Chapter 11 Trustee v. The Blue Law Group, Inc, a

#17.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01114. Complaint by David M. Goodrich, Chapter 11 Trustee against The Blue Law Group, Inc, a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Werth, Steven)

From: 7/10/18, 2/27/19, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

The Blue Law Group, Inc, a

Represented By
Michael K Blue

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth
Mark S Horoupian

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian

**United States Bankruptcy Court
Central District of California
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2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:16-01225 Cambridge Medical Funding Group II, LLC v. Allied Injury Management,

#18.00 CONT Status Conference Re: Complaint by Cambridge Medical Funding Group II, LLC against Allied Injury Management, Inc., John C. Larson. 02 - Other e.g. other actions that would have been brought in state court if unrelated to bankruptcy

HOLDING DATE

From: 11/1/16, 12/6/16, 1/31/17, 2/28/17, 3/28/17, 5/30/17, 8/29/17, 10/3/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19, 4/10/19, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

John C. Larson

Pro Se

Plaintiff(s):

Cambridge Medical Funding Group

Represented By
Kenneth Hennesay

Trustee(s):

David M Goodrich (TR)

Represented By

**United States Bankruptcy Court
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CONT...

Allied Injury Management, Inc.

Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:16-01279 Allied Injury Management, Inc. v. One Stop Multi-Specialty Medical Group

#19.00 CONT Status Conference RE: [1] Adversary case 6:16-ap-01279. Complaint by Allied Injury Management, Inc. against One Stop Multi-Specialty Medical Group & Therapy, Inc., One Stop Multi-Specialty Medical Group, Inc., Nor Cal Pain Management Medical Group, Inc.. (Charge To Estate). Complaint for (1) Breach of Contract; (2) Account Stated; and (3) Unjust Enrichment Nature of Suit: (14 (Recovery of money/property - other))

From: 1/24/17, 3/7/17, 4/25/17, 6/27/17, 7/11/17, 9/12/17, 11/14/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19, 4/10/19, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

One Stop Multi-Specialty Medical

Represented By
Maria K Pum
Maria C Armenta

One Stop Multi-Specialty Medical

Represented By
Maria K Pum
Maria C Armenta

Nor Cal Pain Management Medical

Represented By
Maria K Pum
Maria C Armenta

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

CONT... Allied Injury Management, Inc.

Chapter 11

Plaintiff(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01109 David M. Goodrich, Chapter 11 Trustee v. Titanium Resource Company,

#20.00 CONT Status Conference Re: Complaint by David M. Goodrich, Chapter 11 Trustee against Titanium Resource Company, Inc., a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers and Adversary Proceeding Cover Sheet Nature of Suit: 12 - Recovery of money/property - 547 - preference,13 Recovery of money/property - 548 fraudulent transfer

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Titanium Resource Company, Inc., a

Represented By
Alan W Forsley

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
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2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01110 David M. Goodrich, Chapter 11 Trustee v. Larson, D.C., an individual

#21.00 CONT Status Conference Re: Complaint by David M. Goodrich, Chapter 11 Trustee against John Larson, D.C., an individual. (Charge To Estate). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers, Avoidance of Improper Distributions, and Unjust Enrichment and Adversary Proceeding Cover Sheet Nature of Suit: 12 - Recovery of money/property - 547 preference, 13- Recovery of money/property - 548 fraudulent transfer

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

John Larson, D.C., an individual

Represented By
Alan W Forsley

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, August 28, 2019

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2:00 PM

CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01111 David M. Goodrich, Chapter 11 Trustee v. American Express Company, a

#22.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01111. Complaint by David M. Goodrich, Chapter 11 Trustee against American Express Company, a New York Corporation dba American Express, American Express Travel Related Services, Inc., a New York corporation dba American Express. (Charge To Estate). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19, 6/12/19

Also #23

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

**United States Bankruptcy Court
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CONT... Allied Injury Management, Inc.

Chapter 11

Mark S Horoupian

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01111 David M. Goodrich, Chapter 11 Trustee v. American Express Company, a

#23.00 CONT Status Conference RE: **3rd Party Complaint** [4] Answer to Complaint and Affirmative Defenses to Plaintiff's Complaint, and Third-Party Claim Against John C. Larson, Third-Party Complaint by American Express Company, a New York Corporation dba American Express, American Express Travel Related Services, Inc., a New York corporation dba American Express against John C. Larson

From: 8/21/18, 10/30/18, 1/15/19, 4/10/19, 6/12/19

Also #22

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth
Mark S Horoupian

**United States Bankruptcy Court
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CONT... Allied Injury Management, Inc.

Chapter 11

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
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2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01113 David M. Goodrich, Chapter 11 Trustee v. Netrova, Inc., a California

#24.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01113. Complaint by David M. Goodrich, Chapter 11 Trustee against Netrova, Inc., a California corporation. (Charge To Estate). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Werth, Steven)

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Netreva, Inc., a California

Represented By
Lazaro E Fernandez

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

**United States Bankruptcy Court
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CONT...

Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

Chapter 11

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

#25.00 CONT First Omnibus Objection of Debtor-In-Possession Allied Injury Management, Inc. Seeking Disallowance of Certain Proofs of Claim
(Holding Date)

From: 11/8/16, 12/6/16, 1/10/17, 3/7/17,4/4/17, 4/25/17, 6/27/17, 7/11/17, 9/12/17, 11/14/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19, 4/10/19, 6/12/19

Also #26

EH__

Docket 83

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Movant(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

#26.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 6/7/16, 8/30/16, 9/14/16, 10/20/16, 10/25/16, 12/6/16, 1/10/17, 2/28/17, 3/28/17, 5/30/17, 8/29/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19, 4/10/19, 6/12/19

Also #25

EH__

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
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6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#27.00 Motion In Limine by defendants Real Time Resolutions, Inc and The Bank of New York Mellon fka The Bank of New York, as Trustee for the Certificateholders of CWHEQ Revolving Home Equity Loan Trust, Series 2007-D

Also #28

EH__

Docket 184

Tentative Ruling:

MOTION IN LIMINE FOR RULING ON ADMISSIBILITY OF EVIDENCE

8/28/2019

BACKGROUND

Plaintiff Luevina Henry ("Plaintiff") filed her Chapter 13 petition on July 28, 2016. Plaintiff filed her adversarial proceeding to determine dischargeability of debt, for violation of the stay, and for violation of constitutional rights on August 25, 2017. Her complaint stems from Real Time Resolution's ("RTR") claim filed on September 26, 2016. It originally named 11 different parties, of which all but three have been dismissed: RTR, Bank of NY Mellon (the original lien holder, who used RTR as a loan servicing agent) ("Mellon"), and "Tavares" (allegedly Deputy Tavares of Riverside County). The dismissed parties were dismissed without leave to amend the complaint.

Plaintiff has twice attempted to disallow/object to the claim. The first motion was filed on January 9, 2017, and the second on July 7, 2017. Both motions were repeatedly continued until August 28, 2017, where they were placed off calendar by Judge Jury due to lack of evidence.

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CONT... Luevina Henry

Chapter 13

Defendants Johnny Baker and Jim Husen (Plaintiff's ex-husband and his attorney) were ordered dismissed from the case on October 20, 2017. Defendant Sandy Garza was ordered dismissed on October 27, 2017. Plaintiff appealed the dismissal of Baker and Husen to the 9th Circuit B.A.P., which confusingly denied the appeal of the dismissal of Sandy Garza on February 21, 2018 as interlocutory.

An order to dismiss Plaintiff's underlying Chapter 13 case was entered on July 25, 2018. The final report and account was filed by Trustee on September 17, 2018.

On May 23, 2019, the adversarial complaint was set for a pre-trial hearing on August 28, 2019.

Plaintiff filed her pre-trial statement on August 7, 2019, as well as her list of exhibits. On August 21, 2019, RTR and Mellon filed their pre-trial statement with their own exhibits. They also filed this motion in limine for exclusion of evidence.

RTR and Mellon argue that Plaintiff has failed to submit admissible evidence as part of her pre-trial statement, with most of the facts submitted being allegedly editorial comments on transcribed hearings and final rulings. They appear to request two different things: in the introduction to their motion they request that the Court exclude the allegedly inadmissible evidence, but their conclusion requests that the Court set a pre-trial hearing date to determine the admissibility of the evidence submitted by Plaintiff.

DISCUSSION

The Court finds itself a bit confused with what relief is actually being requested here by RTR and Mellon. In their introduction to the motion RTR and Mellon state that they "hereby move for exclusion of purported evidence from Plaintiff," and the body of their memorandum is an argument as to why the evidence submitted by Plaintiff is allegedly inadmissible. However, their conclusion requests that the Court exercise its discretion and hold a preliminary hearing to determine whether Plaintiff has submitted any admissible evidence to support her allegations. Considering that Plaintiff filed a motion to purportedly exclude evidence, and then set it for a hearing, it would appear that Plaintiff is receiving such a hearing on its chosen hearing date of August 28, 2019. The Court is thus inclined to treat this motion as a motion in limine to exclude the evidence submitted by Plaintiff in their pre-trial statement.

The Court finds that the notice for this motion is clearly insufficient. RTR and Mellon filed their motion in limine on August 21, 2019, and chose a hearing date of August 28, 2019. LBR 9013-1(d)(2) states that motions must be filed and served not less than

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CONT...

Luevina Henry

Chapter 13

21 days prior to the hearing on the motion, barring an application for an emergency or shortened notice hearing. RTR and Mellon have not made such an application. The Court is inclined to find that this deficiency in the notice of the motion is fatal.

Tentative Ruling:

8/28/2019

Service: Improper
Opposition: None

The Court is inclined to DENY, without prejudice, RTR and Mellon's in limine motion for exclusion of evidence. Movants may refile the motion on regular notice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Luevina Henry

Pro Se

Defendant(s):

Real Time Resolutions Inc

Represented By
Renee M Parker
James F Lewin

THE BANK OF NEW YORK

Represented By
Renee M Parker
James F Lewin

Riverside County Sheriff

Represented By
Ronak N Patel

Tavares

Pro Se

Movant(s):

Real Time Resolutions Inc

Represented By
Renee M Parker

**United States Bankruptcy Court
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CONT...

Luevina Henry

Chapter 13

James F Lewin

THE BANK OF NEW YORK

Represented By
Renee M Parker
Renee M Parker
James F Lewin
James F Lewin

Plaintiff(s):

Luevina Henry

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#28.00 Pre-Trial Conference RE: [1] Adversary case 6:17-ap-01187. Complaint fld 8-25-17 - Dischargeability, willful and malicious injury, validity, priority or extent of lien or other interest in property, injunctive relief

Also #27

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luevina Henry Pro Se

Defendant(s):

Real Time Resolutions Inc Represented By
Renee M Parker
James F Lewin

THE BANK OF NEW YORK Represented By
Renee M Parker
James F Lewin

Riverside County Sheriff Represented By
Ronak N Patel

Tavares Pro Se

Plaintiff(s):

Luevina Henry Pro Se

**United States Bankruptcy Court
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CONT... Luevina Henry

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:13-29922 Nancy Ann Howell

Chapter 7

Adv#: 6:14-01070 Law Office of Andrew S. Bisom et al v. Howell

**#29.00 CONT Motion For Summary Judgment
(Holding Date)**

From: 12/2/15, 2/17/16, 3/2/16, 3/16/16, 4/27/16, 9/21/16, 12/14/16, 6/21/17,
1/24/18, 1/31/18, 5/30/18, 10/10/18, 2/27/19

Also #30

EH__

Docket 62

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nancy Ann Howell Pro Se

Defendant(s):

Nancy Ann Howell Pro Se

Movant(s):

Law Office of Andrew S. Bisom Represented By
Andrew S Bisom

Plaintiff(s):

Law Office of Andrew S. Bisom Represented By
Andrew S Bisom

Eisenberg Law Firm, APC Represented By
Andrew S Bisom

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2:00 PM

CONT... Nancy Ann Howell

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, August 28, 2019

Hearing Room 303

2:00 PM

6:13-29922 Nancy Ann Howell

Chapter 7

Adv#: 6:14-01070 Law Office of Andrew S. Bisom et al v. Howell

#30.00 CONT Status Conference RE: [1] Adversary case 6:14-ap-01070. Complaint by Law Office of Andrew S. Bisom, Eisenberg Law Firm, APC against Nancy Ann Howell. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury))

From: 5/14/14, 7/2/14, 12/10/14, 3/18/15, 4/22/15, 5/20/15, 7/22/15, 10/28/15, 12/2/15, 2/17/16, 3/2/16, 3/16/16, 4/27/16, 9/21/16, 12/14/16, 6/21/17, 1/24/18, 1/31/18, 5/30/18, 10/10/18, 2/27/19

Also #29

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nancy Ann Howell Pro Se

Defendant(s):

Nancy Ann Howell Pro Se

Plaintiff(s):

Law Office of Andrew S. Bisom Represented By
Andrew S Bisom

Eisenberg Law Firm, APC Represented By
Andrew S Bisom

Trustee(s):

Steven M Speier (TR) Pro Se

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Wednesday, August 28, 2019

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2:00 PM

CONT... Nancy Ann Howell

Chapter 7

**United States Bankruptcy Court
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Tuesday, September 3, 2019

Hearing Room 303

11:00 AM

6:16-11653 Micheal Wayne Turner and Vickie Taylor Turner

Chapter 13

#1.00 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Insurance proceeds

MOVANT: DAIMLER TRUST

EH__

Docket 45

Tentative Ruling:

9/3/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 8.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Micheal Wayne Turner

Represented By
M. Wayne Tucker

Joint Debtor(s):

Vickie Taylor Turner

Represented By
M. Wayne Tucker

Movant(s):

Daimler Trust

Represented By
Sheryl K Ith
Jennifer H Wang

**United States Bankruptcy Court
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11:00 AM

CONT... Micheal Wayne Turner and Vickie Taylor Turner

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, September 3, 2019

Hearing Room 303

11:00 AM

6:16-15914 Maria Aurora Chaidez Grajeda

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Dodge Ram 1500 Quad Cab SLT 1C6RR6GG7HS651216

MOVANT: CONSUMER PORTFOLIO SERVICES, INC.

From: 7/30/19, 8/27/19

EH _____

Docket 43

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Maria Aurora Chaidez Grajeda

Represented By
Nicholas Nicholas Wajda

Movant(s):

Consumer Portfolio Services, Inc.

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, September 3, 2019

Hearing Room 303

11:00 AM

6:16-20659 Romy Abalunan Geraldo and Bernadine Nieves Geraldo

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2767 Libra Dr., Riverside, California 92503-6018

MOVANT: NEWREZ LLC

From: 8/20/19

EH__

Docket 63

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the cure of the arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Romy Abalunan Geraldo

Represented By
John F Brady

Joint Debtor(s):

Bernadine Nieves Geraldo

Represented By
John F Brady

**United States Bankruptcy Court
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11:00 AM

CONT... Romy Abalunan Geraldo and Bernadine Nieves Geraldo

Chapter 13

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, September 3, 2019

Hearing Room 303

11:00 AM

6:17-13923 Suzanne Berry

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11242 Sweetwater Drive, Riverside, California 92505

MOVANT: CHAMPION MORTGAGE COMPANY

EH__

Docket 36

Tentative Ruling:

9/3/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1).
GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Suzanne Berry

Represented By
Christopher Hewitt

Movant(s):

Champion Mortgage Company

Represented By
Ashlee Fogle
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, September 3, 2019

Hearing Room 303

11:00 AM

6:18-15033 Victor Portillo

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6455 Jones Avenue, Riverside, CA 92505

MOVANT: WILMINGTON SAVINGS FUND SOCIETY, FSB

EH__

Docket 49

Tentative Ruling:

9/3/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Victor Portillo

Represented By
Rebecca Tomilowitz

Movant(s):

Wilmington Savings Fund Society,

Represented By
Mark S Krause

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, September 3, 2019

Hearing Room 303

11:00 AM

6:19-13174 Daniel Benjamin Verwers

Chapter 7

#6.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: Plasma table and equipment

MOVANT: CIT BANK, N.A.

From: 8/20/19

EH__

Docket 8

Tentative Ruling:

Tentative Ruling:
8/20/2019

Service is Proper
Opposition: None

Movant to address whether relief from stay is appropriate where parties have subsequently entered into a reaffirmation agreement filed on July 25, 2019.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Daniel Benjamin Verwers

Represented By
Todd L Turoci

Movant(s):

CIT Bank, N.A.

Represented By
Raffi Khatchadourian

**United States Bankruptcy Court
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11:00 AM

CONT... Daniel Benjamin Verwers

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, September 3, 2019

Hearing Room 303

11:00 AM

6:19-15736 Virginia Saavedra

Chapter 7

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA ACCORD, VIN: 1HGC R2F5 3HA0 07498

MOVANT: HONDA LEASE TRUST

EH__

Docket 10

Tentative Ruling:

9/3/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Virginia Saavedra

Represented By
James Geoffrey Beirne

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, September 3, 2019

Hearing Room 303

11:00 AM

6:19-16121 Richard Bonilla Mercado

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2007 Shockwave 28 (Deckboat) Vin SKGDB6891607

MOVANT: SCHOOLSFIRST FEDERAL CREDIT UNION

EH__

Docket 16

Tentative Ruling:

9/3/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief pursuant to 11 U.S.C. § 362(d)(2) because the body of the motion does not establish grounds for the relief requested. GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Richard Bonilla Mercado

Represented By
Keith Q Nguyen

Movant(s):

SCHOOLSFIRST FEDERAL

Represented By
Paul V Reza

**United States Bankruptcy Court
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11:00 AM

CONT... Richard Bonilla Mercado

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, September 3, 2019

Hearing Room 303

11:00 AM

6:19-16490 Jesus Gutierrez Ruiz and Guadalupe Ruiz De Ruiz

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA ACCORD, VIN: 1HGC R2F3 9HA1 86127

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

Docket 10

Tentative Ruling:

9/3/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶ 2. DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jesus Gutierrez Ruiz

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Guadalupe Ruiz De Ruiz

Represented By
Ramiro Flores Munoz

Movant(s):

AMERICAN HONDA FINANCE

Represented By

**United States Bankruptcy Court
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Tuesday, September 3, 2019

Hearing Room 303

11:00 AM

**CONT... Jesus Gutierrez Ruiz and Guadalupe Ruiz De Ruiz
Vincent V Frounjian**

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
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Courtroom 303 Calendar**

Tuesday, September 3, 2019

Hearing Room 303

2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

#10.00 CONT Application for Compensation for Michael Jones, Debtor's Attorney, Period: 10/23/2018 to 3/26/2019, Fee: \$35050, Expenses: \$251.80

From: 8/20/19

EH__

Docket 183

Tentative Ruling:

Application: \$35,050.00 in fees and \$251.80 in expenses, as well as \$54,450.00 in fees previously approved by the Court on November 27, 2018, but for which no order was lodged by Applicant, for a combined request of \$89,500 in fees and \$251.80, totaling \$89,751.80 (\$79,151.80 remaining to be paid).

Opposition: No.

Analysis: 11 U.S.C. § 330(a)(3) (2005) provides factors to be considered in determining the reasonableness of requested compensation.

Background

On March 27, 2018, G Hurtado Construction, Inc. ("Debtor") filed its petition for chapter 11 relief. The bankruptcy was precipitated by a wage and hour lawsuit brought by two and possibly more former employees. On April 25, 2018, the Court approved the employment application of M. Jones & Associates, P.C. ("Applicant") to serve as counsel to Debtor. Debtor's initial disclosure statement required amendment following the Court's allowance of late-filed claims. The First Amended DS and Plan were filed in October 2018.

On October 22, 2018, the Applicant filed the first interim fee application seeking allowance of \$54,450 in fees and \$0 in expenses for the period of March 27, 2018, through and including October 22, 2018. Applicant also stated that it was in possession of \$10,600 of funds from the Debtor in their trust account. No

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opposition was filed. On November 27, 2018, the Court granted the interim fee application in the amount of \$43,560, based on an 80% allowance and a 20% holdback for final approval, on the condition that Applicant file a client declaration or explanation in regard to their application, as required by LBR 2016-1(a)(1)(J). However, Applicant never lodged an order as to their fee application, despite the Court granting their request.

On December 3, 2018, Debtor filed an adversarial complaint objecting to the claim of Juan Catano and Faustino Magana, and, in the alternative, requesting indemnification from Donahoo & Associates, P.C. On June 18, 2019, parties in the adversarial proceeding filed a stipulation requesting that the Court close the adversarial proceeding until the arbitration proceeding between the parties was resolved. On June 24, 2019, the Court entered an order continuing the status conference on the adversarial proceeding to January 15, 2020, with leave to parties to stipulate to advancing the conference if needed.

Debtor filed their second amended plan and disclosure statement on December 27, 2018. They filed a third amended plan and disclosure statement on March 7, 2019. The third amended plan was confirmed via order entered on April 5, 2019. The third amended plan provides a 102% dividend to the general unsecured creditors. The third amended plan was confirmed via order entered by the Court on April 5, 2019.

On July 22, 2019, Applicant filed their second, and final, application for compensation, seeking allowance of both \$35,050.00 in fees and \$251.80 in expenses for services performed from the period of October 23, 2018 through the confirmation of the plan at the hearing on March 26, 2019, as well as allowance of the \$54,450 in fees and \$0 in expenses which was originally approved by the Court on November 27, 2018, but for which no order was lodged. No opposition was filed against Applicant's second fee application. However, Applicant once again failed to file a client declaration or explanation in regard to their explanation, as required by LBR 2016-1(a)(1)(J).

Analysis

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Pursuant to 11 U.S.C. § 330(a)(1), the court may award reasonable compensation for actual, necessary services. The court has an independent duty to review the fee application in the absence of objections. *See* 11 U.S.C. § 330(a)(2). The court "will not indulge in extensive labor and guesswork to justify a fee for an attorney who has not done so himself." *In re Taylor*, 66 B.R. 390 (Bankr. W.D. Pa. 1986).

11 U.S.C. § 330(a)(3) provides factors to be considered in determining the reasonableness of requested compensation. These factors include time spent, rates charged, necessity of the service, reasonableness of the service, expertise of attorney, and comparable market rates.

Upon review of Applicant's final fee application, the billing records, and the work performed, the Court is inclined to find that Applicant's requested compensation is generally reasonable. In particular, the Court takes note of the successful resolution of Applicant's Chapter 11 case, with a confirmed 100% plan of reorganization and the successful litigation of several contested claims. While there is a remaining adversarial proceeding open in the case, the Court notes that parties have requested that it close that proceeding until arbitration has concluded. As such, the Court is inclined to grant Applicant's combined request of \$89,500 in fees.

Upon review of Counsel's request for \$251.80 in expenses, the Court is inclined to find that Counsel has properly accounted for their expenses, and that the expenses themselves are reasonable. As such, the Court is inclined to grant Counsel's request for \$251.80 in expenses. As the previous interim application requested \$0 in expenses, the Court does not need to approve a combined request here regarding expenses.

However, Applicant has once again failed to comply with Local Rule 2016-1(a)(1) (J). It requires a separately filed declaration from the client, or in the alternative, if the client refuses to provide such declaration, Applicant's own declaration describing steps taken to obtain the client's declaration. Previously, Debtor filed such a declaration after the hearing on November 27, 2018. As such, the Court will repeat its prior decision from the first interim application, and condition the order authorizing payment of the approved combined fees and expenses on the filing of a declaration or explanation from the Debtor, as required by LBR

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2016-1(a)(1)(J).

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Tentative Ruling:

August 20, 2019

Service: Proper
Opposition: No.

The Court is inclined to GRANT Applicant's application for compensation for fees and expenses in the combined amount of \$89,500 in fees and \$251.80 in expenses, for a total amount of \$89,751.80 (\$79,151.80 remaining to be paid). However, the entering of Applicant's lodged order for compensation will be conditioned on the filing of a declaration, or explanation as to why no declaration is forthcoming, as required by LBR 2016-1(a)(1)(J), as well as the lodgment of an order approving the first interim fee application.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

Movant(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

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6:18-20646 John M Makowski and Nancy M Makowski

Chapter 7

#1.00 Trustee's Motion to Dismiss Case and vacate discharge if previously entered as to Nancy Makowski

EH__

Docket 24

Tentative Ruling:

9/4/19

BACKGROUND

On December 21, 2018, John & Nancy Makowski (collectively "Debtors"; individually, "John" and "Nancy") filed a Chapter 7 voluntary petition. A meeting of creditors was scheduled for January 22, 2019. At the first meeting of creditors, John appeared and was examined by Trustee. Nancy, however, did not appear, and the meeting of creditors was continued. Nancy also failed to appear at the second and third meeting of creditors.

On April 1, 2019, Debtors received a discharge. On April 10, 2019, Trustee filed a motion to vacate Nancy's discharge and dismiss her case. Trustee originally filed the motion on negative notice, however, the Court requested that the matter be set for hearing.

DISCUSSION

I. Dismissal

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It is not exactly clear what legal basis Trustee is relying upon to justify dismissal of Nancy's bankruptcy case. 11 U.S.C. § 707(a)(1) states:

- (a) The court may dismiss a case under this chapter only after notice and a hearing and only for cause, including –
 - (1) Unreasonable delay by the debtor that is prejudicial to creditors

Here, Debtor has repeatedly failed to appear at the meeting of creditors. This constitutes unreasonable delay that is prejudicial to creditors, thus warranting dismissal.

II. Vacation of Discharge

Here, where dismissal of the case is appropriate, logic dictates that a prerequisite to such dismissal is a vacation of the discharge. The standard approach when a trustee has not been able to determine whether an objection to discharge is warranted (by the applicable deadline) is for the Trustee to file a motion requesting an extension of that deadline pursuant to FED. R. BANKR. P. Rule 4004(b).

Trustee did not file such an extension here. Therefore, instead of filing an objection to discharge, Trustee would need to revoke the discharge already entered.

A request to revoke a discharge requires an adversary proceeding pursuant to FED. R. BANKR. P. Rule 7001(4). See *In re Lokay*, 269 B.R. 132, 138 (Bankr. W.D. Pa. 2001) ("To begin with, a proceeding to revoke a discharge must be brought as an adversary action."); *In re Barr*, 183 B.R. 531, 536 (Bankr. N.D. Ill. 1995) ("Discharge can be

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revoked only by way of an Adversary proceeding brought pursuant to FED. R. BANKR. P. Rule 7001(4) and U.S.C. § 727(d)."); *see also* 10 COLLIER'S ON BANKRUPTCY ¶ 7001.01 (16th ed. 2018) ("Failure to commence an adversary proceeding when seeking the relief of the kind listed in Rule 7001 has resulted in denial of the motion or dismissal of the proceeding."). While, in certain circumstances, it may be appropriate to waive the requirement of an adversary proceeding, those cases fall into two categories – absence of prejudice to the affected parties or explicit or implicit waiver of the requirement. *See id.* Here, when Debtors have not responded to the motion, the waiver of a material service requirement would result in the denial of due process to Nancy.

Additionally, on the merits, Trustee's motion contains no legal analysis and does not cite any applicable legal provision which could provide a basis to revoke Nancy's discharge. *See generally In re Rodwell*, 280 B.R. 100, 102 (Bankr. D.N.J. 2002) ("It is well-established that a bankruptcy court may revoke a debtor's discharge only on the grounds specifically enumerated in Section 727(d). Since the trustee has not proven, nor even alleged, that the debtors' failure to cooperate falls within the scope of Section 727(d), this court must deny the trustee's motion for revocation of discharge.").

Finally, the Court notes that the docket in this case reflects two events that are explicitly or implicitly incompatible with Trustee's request. First, the Court notes that Trustee filed a notice of no assets on June 3, 2019. It is unclear how Trustee could have reached such a conclusion and fully administered the estate if it was believed that further information from Nancy was necessary. Additionally, the Court notes that the docket reflects that two meeting of creditors were held – it is unclear why there is no entry for the third meeting of creditors – and one event states "Non appearance by Ms. Makowski" while the other states "Appearance for Mrs. Makowski."

Because Trustee's request to dismiss Nancy's case would appear to be conditioned on the revocation of Nancy's discharge, the Court is inclined to DENY the motion in its entirety.

APPEARANCES REQUIRED.

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CONT... John M Makowski and Nancy M Makowski

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Party Information

Debtor(s):

John M Makowski

Represented By
Scott R Burton
Sean C Ferry

Joint Debtor(s):

Nancy M Makowski

Represented By
Scott R Burton

Movant(s):

Larry D Simons (TR)

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:19-17041 Robert Allen Chertow and Anneke Eleanora Chertow

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#2.00 Motion to appoint Anneke Eleanora Chertow as Next Friend; to excuse Robert Allen Chertow from Pre-Petition Counseling, Post-Petition Credit Education, Attendance at 341(a) Hearings and from attending all of the court proceedings during the course of the case; and excusing him from signing documents, authorizing Co-Debtor to sign documents on his behalf and do all things required of him during the case

EH__

Docket 5

Tentative Ruling:

9/4/19

BACKGROUND

On August 12, 2019, Robert & Anneke Chertow (collectively, "Debtors"; individually, "Robert" and "Anneke") filed a Chapter 7 voluntary petition.

On the petition date, Debtors filed a motion to appoint Anneke as next friend to Robert. The motion also seeks authorization for Robert to be excused from (1) the pre-petition credit counseling and post-petition credit education courses; (2) personally signing required documents; (3) the meeting of creditors and any court proceedings.

In support of the motion, Debtors filed a declaration of Anneke which states that Robert has Alzheimer's and lives in a home care facility in Cathedral City. Attached to the declarations, Debtors have submitted a brief doctor's note which states that Robert has been diagnosed with Alzheimer dementia and "is unable to understand the

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CONT... **Robert Allen Chertow and Anneke Eleanora Chertow** Chapter 7

bankruptcy proceedings" as well as a durable power of attorney executed on April 30, 2019. The Court notes that notice and service are proper, and that the motion was separately served on Robert.

DISCUSSION

FED. R. BANKR. P. Rule 1004.1 allows "a representative, including a general guardian, committee, conservator, or similar fiduciary," to file a voluntary petition on behalf of an incompetent person.

The rule further provides that:

[a]n infant or incompetent person who does not have a duly appointed representative may file a voluntary petition by next friend or guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person who is a debtor and is not otherwise represented or shall make any other order to protect the infant or incompetent debtor.

Rule 1004.1 is patterned after FED.R.CIV.P. Rule 17(c), which applies to adversary proceedings pursuant to FED. R. BANKR. P. Rule 7017. That rule provides that an incompetent person may sue "by a next friend or by a guardian ad litem" if the incompetent person does not have a duly appointed representative, and provides that "[t]he court must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action."

Cases interpreting Rule 17(c) look to the law of the state in which the subject is domiciled and follow the state's incompetency laws." *In re Burchell*, 2014 WL 1304635, at *1 (Bankr. N.D. Ohio 2014)(internal citations omitted). This court shall thus look to the California Probate Code's § 811 which outlines the possible bases for a determination that a person is of unsound mind or lacks capacity to make a decision or do a certain act, including for example, incapacity to contract or to execute wills or trusts.

California law requires evidence of specific deficits and a link between the identified deficits and the acts that the allegedly incompetent person would otherwise have capacity to perform. The types of deficiencies are outlined in § 811 as follows:

- (1) Alertness and attention, including, but not limited to, the following:

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- (A) Level of arousal or consciousness.
- (B) Orientation to time, place, person, and situation.
- (C) Ability to attend and concentrate.
- (2) Information processing, including, but not limited to, the following:
 - (A) Short- and long-term memory, including immediate recall.
 - (B) Ability to understand or communicate with others, either verbally or otherwise.
 - (C) Recognition of familiar objects and familiar persons.
 - (D) Ability to understand and appreciate quantities.
 - (E) Ability to reason using abstract concepts.
 - (F) Ability to plan, organize, and carry out actions in one's own rational self-interest.
 - (G) Ability to reason logically.
- (3) Thought processes. Deficits in these functions may be demonstrated by the presence of the following:
 - (A) Severely disorganized thinking.
 - (B) Hallucinations.
 - (C) Delusions.
 - (D) Uncontrollable, repetitive, or intrusive thoughts.
- (4) Ability to modulate mood and affect. Deficits in this ability may be demonstrated by the presence of a pervasive and persistent or recurrent state of euphoria, anger, anxiety, fear, panic, depression, hopelessness or despair, helplessness, apathy or indifference, that is inappropriate in degree to the individual's circumstances.

Here, while the evidence submitted by Debtors is not detailed and extensive, the Court concludes that the diagnosis of Alzheimer's dementia, the doctor's opinion that Robert cannot understand the proceedings, and the durable power of attorney which was executed approximately three months prior to the filing of the bankruptcy petition, taken together, support a finding that Robert is not competent to participate in these proceedings and that the appointment of a next friend is appropriate.

Furthermore, given that the Court finds that the appointment of Anneke as next friend is appropriate pursuant to FED. R. BANKR. P. Rule 1004.1, the Court also concludes that it is appropriate to classify Robert as mentally impaired pursuant to 11 U.S.C. § 109(h)(4), and that, as a result, it is appropriate to waive the prepetition and postpetition credit courses pursuant to 11 U.S.C. § 109(h)(4) and 11 U.S.C. § 727(a)(11).

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Finally, the Court notes it deems failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to GRANT the motion.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Robert Allen Chertow

Represented By
H. Christopher Heritage

Joint Debtor(s):

Anneke Eleanora Chertow

Represented By
H. Christopher Heritage

Movant(s):

Robert Allen Chertow

Represented By
H. Christopher Heritage
H. Christopher Heritage

Anneke Eleanora Chertow

Represented By
H. Christopher Heritage

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:14-01248 Revere Financial Corporation, a California corpora v. Roger, MD

#3.00 Defendants Motion For Summary Judgment Or In The Alternative For Partial Summary Judgment

EH__

Docket 147

***** VACATED *** REASON: CONTINUED TO 9/11/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Douglas J Roger MD

Represented By
Summer M Shaw
Thomas J Eastmond
Marc C Forsythe

Movant(s):

Douglas J Roger MD

Represented By
Summer M Shaw
Thomas J Eastmond
Marc C Forsythe

Plaintiff(s):

Revere Financial Corporation, a

Represented By
Franklin R Fraley Jr

Jerry Wang

Represented By
Franklin R Fraley Jr

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CONT... Douglas Jay Roger

Chapter 7

A. Cisneros

Anthony J Napolitano

Represented By
Chad V Haes
D Edward Hays

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

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6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01213 Pringle v. JPMorgan Chase Bank, National Association dba Chas

#4.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01213. Complaint by John Pringle against JPMorgan Chase Bank, National Association dba Chase Bank, Chase Bank USA, National Association. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

From: 1/9/19, 3/13/19, 6/5/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 11/6/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

JPMorgan Chase Bank, National

Represented By
Christopher O Rivas

Chase Bank USA, National

Represented By
Christopher O Rivas

Plaintiff(s):

John Pringle

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

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6:13-30133 Nabeel Slaieh

Chapter 7

Adv#: 6:14-01081 Albrecht v. Slaieh

#5.00 Motion to Dismiss Adversary Proceeding

Also #6

EH__

Docket 188

Tentative Ruling:

9/4/2019

BACKGROUND

On December 18, 2013, Nabeel Slaieh ("Defendant") filed a Chapter 7 voluntary petition.

On March 24, 2014, Jon Albrecht ("Plaintiff") filed a non-dischargeability complaint against Defendant pursuant to 11 U.S.C. § 523(a)(6). After dismissal of the first complaint, Plaintiff filed an amended complaint on September 23, 2014. On November 7, 2014, Defendant filed his answer.

On February 23, 2016, the Court dismissed the action for non-prosecution. On June 17, 2016, the Court vacated the order dismissing the case and sanctioned Plaintiff.

On October 25, 2016, the United States Trustee obtained a judgment denying Defendant a discharge in adversary proceeding 6:14-ap-01224-MH. Defendant

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subsequently appealed the judgment. On September 11, 2017, the Bankruptcy Appellate Panel dismissed the appeal.

On June 13, 2018, Plaintiff filed a motion for summary judgment. This motion was ultimately denied by the Court in a memorandum decision entered March 19, 2019. On July 30, 2019, Plaintiff filed a motion to dismiss this adversary proceeding. The last paragraph of page 3 of docket number 188 states the following:

Since the Final Judgment in the U.S. Trustee's Action denied Debtor/Defendant a discharge in his underlying bankruptcy, Case No. 6:13-bk-30133-MH, the claim in Plaintiff's FAC seeking denial of discharge of the particular debt at issue therein is now moot and should be dismissed without prejudice. Because the Defendant's discharge has already been denied, there is no need to further prosecute Plaintiff's FAC. And because of the lack of prejudice to Defendant, the dismissal should be without prejudice.

DISCUSSION

FED. R. CIV. P. Rule 41(a)(2), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7041, states, in pertinent part: "Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." "In deciding whether to grant a voluntary dismissal, a trial court must consider whether the defendant will suffer legal prejudice as a result of the court's dismissal." *In re Lowenschuss*, 67 F.3d 1394, 1399 (9th Cir. 1995) (citing *LeCompte v. Mr. Chip, Inc.*, 528 F.2d 601, 604 (5th Cir. 1976) ("We follow the traditional principle that dismissal should be allowed unless the defendant will suffer some plain prejudice *other than the mere prospect of a second lawsuit.*") (emphasis in original)).

Here, Defendant has not opposed the motion, and no evidence has been presented to the Court which would indicate that Defendant is or could possibly be prejudiced by

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the dismissal of this action. Furthermore, the Court notes that while Plaintiff has requested that the complaint be dismissed without prejudice, the statute of limitations under FED. R. BANKR. P. Rule 4007(c) for adversary proceedings brought pursuant to 11 U.S.C. § 523(a)(6) would essentially render dismissal of this action with prejudice. As a result, it is unclear why Plaintiff has requested that the action be dismissed without prejudice.

TENTATIVE RULING

The Court is inclined to GRANT the motion, dismissing the action.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Nabeel Slaieh

Represented By
George A Saba - INACTIVE -

Defendant(s):

Nabeel Slaieh

Represented By
Stephen B Mashney
Bruce A Boice

Movant(s):

W E Jon Albrecht

Represented By
William L Miltner
Robert C Harvey

Plaintiff(s):

W E Jon Albrecht

Represented By
William L Miltner
Robert C Harvey

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Chapter 7

Trustee(s):

Larry D Simons (TR)

Represented By
D Edward Hays
David Wood
Matthew Grimshaw

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6:13-30133 Nabeel Slaieh

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Adv#: 6:14-01081 Albrecht v. Slaieh

#6.00 CONT Status Conference RE: [1] Adversary case 6:14-ap-01081. Complaint by W.E. Jon Albrecht against Nabeel Slaieh. willful and malicious injury))

From: 4/17/19, 5/29/19, 7/31/19

Also #5

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nabeel Slaieh

Represented By
George A Saba - INACTIVE -

Defendant(s):

Nabeel Slaieh

Represented By
Stephen B Mashney
Bruce A Boice

Plaintiff(s):

W E Jon Albrecht

Represented By
William L Miltner
Robert C Harvey

Trustee(s):

Larry D Simons (TR)

Represented By
D Edward Hays
David Wood

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Nabeel Slaieh

Matthew Grimshaw

Chapter 7

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6:19-17537 Jauregui Trucking, Inc.

Chapter 11

#7.00 Emergency Hearing on Debtor's Motion for Authorization to use Cash Collateral

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

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Hearing Room 303

11:00 AM

6:16-10257 Cecilia Orozco and Sergio Orozco

Chapter 13

#1.00 Motion For Sanctions/Disgorgement

EH__

Docket 86

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cecilia Orozco

Represented By
Majid Safaie
Manfred Schroer

Joint Debtor(s):

Sergio Orozco

Represented By
Majid Safaie
Manfred Schroer

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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Hearing Room 303

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6:16-15668 Roger C Jefferson

Chapter 13

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

EH__

Docket 126

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roger C Jefferson

Represented By
Paul Y Lee

Movant(s):

Roger C Jefferson

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:18-13796 Charles Anthony Anunciation and Lisa Rhea Anunciation Chapter 13

#3.00 CONT Motion RE: Objection to Claim No 3-1 by Claimant U.S. Bank Trust, N.A.
As Trustee for LSF9 Master Participation Trust

From: 8/1/19

EH ____

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Anthony Anunciation

Represented By
Jeffrey B Smith

Joint Debtor(s):

Lisa Rhea Anunciation

Represented By
Jeffrey B Smith

Movant(s):

Charles Anthony Anunciation

Represented By
Jeffrey B Smith

Lisa Rhea Anunciation

Represented By
Jeffrey B Smith

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:18-18724 Marie Lynne Trejo

Chapter 13

#4.00 Motion to Disallow Claims #10 Employment Development Department

EH__

Docket 29

Tentative Ruling:

9/5/19

BACKGROUND:

On October 15, 2018, Marie Trejo ("Debtor") filed a Chapter 13 voluntary petition. On January 11, 2019, Debtor's Chapter 13 plan was confirmed. The plan has been subsequently modified once.

On January 2, 2019, the Employment Development Department ("Creditor") filed a proof of claim for a secured claim in the amount of \$5,678.68 ("Claim 10"). On July 30, 2019, Debtor filed an objection to Claim 10. Debtor asserts that she does not own any real property and that, therefore, Claim 10 is not secured.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy

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CONT... Marie Lynne Trejo

Chapter 13

Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

Here, Claim 10 is identified by Creditor as being secured, and the attachment provided by Creditor states that an abstract of judgment was filed with the Sacramento County Recorder on January 7, 2011. Pursuant to the claim objection and the schedules filed by Debtor, however, Debtor does not own any real property. Therefore, notwithstanding the recordation of an abstract of judgment, there is no property for the judgment to attach to, and the claim is unsecured.

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CONT... Marie Lynne Trejo

Chapter 13

Furthermore, the Court deems failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, OVERRULING Claim 10 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Marie Lynne Trejo

Represented By
Steven A Alpert

Movant(s):

Marie Lynne Trejo

Represented By
Steven A Alpert
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-10990 David Sandoval and Mary Celine Sandoval

Chapter 13

#5.00 Motion RE: Objection to Claim Number 5 by Claimant Cavalry SPV I, LLC.

EH__

Docket 51

Tentative Ruling:

9/5/19

BACKGROUND:

On February 7, 2019, David & Mary Sandoval ("Debtors") filed a Chapter 13 voluntary petition. On May 16, 2019, Debtors' Chapter 13 plan was confirmed.

On March 20, 2019, Cavalry SPV I, LLC ("Creditor") filed a proof of claim for an unsecured claim in the amount of \$5,743.42 ("Claim 5"). On August 8, 2019, Debtors filed an objection to Claim 10. Debtor assert that the claim has already been satisfied. On August 9, 2019, Creditor filed a withdrawal of Claim 5. The Court notes, however, that FED. R. BANKR. P. Rule 3006 prevents a creditor from withdrawing a proof of claim after an objection to claim has been filed.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie*

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CONT... **David Sandoval and Mary Celine Sandoval**

Chapter 13

evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

In support of their objection to Claim 10, Debtors have attached an acknowledgment of satisfaction of judgment which was filed on August 29, 2018. Therefore, the judgment underlying Claim 10 having been satisfied, Claim 10 is no longer a "claim" within the meaning of 11 U.S.C. § 101(5) and is, therefore, subject to disallowance under 11 U.S.C. § 502(b)(1).

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CONT... David Sandoval and Mary Celine Sandoval

Chapter 13

Nevertheless, the Court notes that service of the underlying claim objection is improper. Pursuant to FED. R. BANKR. P. Rule 3007(a)(1), which is not subject to waiver by this Court, creditors must receive thirty-days' notice of a hearing on a claim objection. Here, Debtors have only served the instant claim objection on twenty-eight days' notice.

TENTATIVE RULING

The Court is inclined to CONTINUE the matter to September 19, 2019 at 11:00 a.m. for the notice period to run.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David Sandoval

Represented By
Bryant C MacDonald

Joint Debtor(s):

Mary Celine Sandoval

Represented By
Bryant C MacDonald

Movant(s):

David Sandoval

Represented By
Bryant C MacDonald

Mary Celine Sandoval

Represented By
Bryant C MacDonald

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-12169 Jason G. Brodowski and Lithia A. Brodowski

Chapter 13

#6.00 Motion RE: Objection to Claim Number 4 by Claimant Internal Revenue Service

EH__

Docket 41

Tentative Ruling:

9/5/19

BACKGROUND:

On March 18, 2019, Jason & Lithia Brodowski ("Debtors") filed a Chapter 13 voluntary petition. On June 28, 2019, Debtors' Chapter 13 plan was confirmed.

On March 28, 2019, the Internal Revenue Service ("Creditor") filed a proof of claim in the amount of \$76,441.65, identifying \$60,757.48 as entitled to priority ("Claim 4"). On August 6, 2019, Debtor filed an objection to Claim 4. Debtor asserts that the second claim filed by the IRS, Claim 9, supersedes Claim 4, and that, implicitly Claim 9 should have been filed as an amendment to Claim 4 rather than as an independent claim. On August 21, 2019, IRS withdrew Claim 4. The Court notes, however, that FED. R. BANKR. P. Rule 3006 renders such withdrawal ineffective.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in

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11:00 AM

CONT... **Jason G. Brodowski and Lithia A. Brodowski**

Chapter 13

interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

Here, the Court notes that Claim 9 was originally filed as a duplicate claim – the amount and the basis of the claim were identical to the amount and the basis for Claim 4. Subsequently, Creditor amended Claim 9 twice to reduce the amount of the claim. Because it appears that Creditor filed a duplicate claim, noting that Creditor has since

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CONT... Jason G. Brodowski and Lithia A. Brodowski Chapter 13

attempted to withdraw Claim 4, and noting that Creditor did not oppose the instant motion, which the Court deems consent to the relief requested pursuant to Local Rule 9013-(1)(h), the Court is inclined to sustain the objection.

Finally, the Court notes that the originally claim objection, filed on August 6, 2019, included the wrong courtroom in the caption. While the courtroom was amended the next day, that amendment was untimely pursuant to FED. R. BANKR. P. Rule 3007-(a)(1). The Court, however, concludes that in this circumstance, the failure to originally specify the correct courtroom did not deprive Creditor of adequate notice or service, and does not constitute a violation of FED. R. BANKR. P. Rule 3007-(a)(1).

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 4 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jason G. Brodowski

Represented By
Gregory Ashcraft

Joint Debtor(s):

Lithia A. Brodowski

Represented By
Gregory Ashcraft

Movant(s):

Jason G. Brodowski

Represented By
Gregory Ashcraft

**United States Bankruptcy Court
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11:00 AM

CONT... Jason G. Brodowski and Lithia A. Brodowski
Lithia A. Brodowski
Represented By
Gregory Ashcraft

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-17080 Cesar Orozco

Chapter 13

#7.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate ALL REAL AND PERSONAL PROPERTY

MOVANT: CESAR OROZCO

EH__

Docket 11

Tentative Ruling:

9/5/19

Service: Proper

Opposition: None

Based upon the Court's review of the motion, notice appearing proper, no opposition having been filed, and good cause appearing to rebut the presumption that the instant case was filed in bad faith pursuant to 11 U.S.C. § 362(c)(3), the Court is inclined to GRANT the motion, CONTINUING the automatic stay as to all creditors. The Court is inclined to DENY all remaining requests for relief as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Cesar Orozco

Represented By
Paul Y Lee

Movant(s):

Cesar Orozco

Represented By
Paul Y Lee

**United States Bankruptcy Court
Central District of California
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11:00 AM

CONT... Cesar Orozco

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-13629 Rogelio Marquez and Rosa M. Perea de Marquez

Chapter 13

#8.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rogelio Marquez

Represented By
Curtis R Aijala

Joint Debtor(s):

Rosa M. Perea de Marquez

Represented By
Curtis R Aijala

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-13994 Oscar Carrasco De Dios and Sofia P. De Dios

Chapter 13

#9.00 Motion RE: Objection to Claim Number 3 by Claimant Deutsche Bank National Trust Company

Also #10 - #12

EH__

Docket 20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada

Joint Debtor(s):

Sofia P. De Dios

Represented By
Glenn Ward Calsada

Movant(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada
Glenn Ward Calsada
Glenn Ward Calsada

Sofia P. De Dios

Represented By
Glenn Ward Calsada
Glenn Ward Calsada

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-13994 Oscar Carrasco De Dios and Sofia P. De Dios

Chapter 13

#10.00 Motion RE: Objection to Claim Number 4 by Claimant CIT BANK, N.A.

Also #9 - #12

EH__

Docket 22

***** VACATED *** REASON: CONTINUED TO 10/3/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada

Joint Debtor(s):

Sofia P. De Dios

Represented By
Glenn Ward Calsada

Movant(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada
Glenn Ward Calsada
Glenn Ward Calsada

Sofia P. De Dios

Represented By
Glenn Ward Calsada
Glenn Ward Calsada

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13994 Oscar Carrasco De Dios and Sofia P. De Dios

Chapter 13

#11.00 Motion to Avoid Lien Junior Lien with Deutsche Bank

Also #9 - #12

EH__

Docket 30

***** VACATED *** REASON: ORDER ENTERED 8/28/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada

Joint Debtor(s):

Sofia P. De Dios

Represented By
Glenn Ward Calsada

Movant(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada
Glenn Ward Calsada
Glenn Ward Calsada

Sofia P. De Dios

Represented By
Glenn Ward Calsada
Glenn Ward Calsada

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13994 Oscar Carrasco De Dios and Sofia P. De Dios

Chapter 13

#12.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19

Also #9 - #11

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada

Joint Debtor(s):

Sofia P. De Dios

Represented By
Glenn Ward Calsada

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14725 Glenda Laurene Long

Chapter 13

#13.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Glenda Laurene Long

Represented By
Nicholas Nicholas Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14790 Roderick Harlan Friloux and Rebecca Andrade-Friloux

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roderick Harlan Friloux

Represented By
Tina H Trinh

Joint Debtor(s):

Rebecca Andrade-Friloux

Represented By
Tina H Trinh

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14800 Bradley J Allanach

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bradley J Allanach

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14804 Michael Anthony Carreon

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Anthony Carreon

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14828 Portia Wondaline Barmes

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Portia Wondaline Barmes

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14843 Rhonda Jan Kennedy

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rhonda Jan Kennedy

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14847 Phonmany Phengphavong

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Phonmany Phengphavong

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14865 Rheanna Leigh Frey

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rheanna Leigh Frey

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14881 Judy May Wells

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Judy May Wells

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14884 Jerson Alonzo and Lizeth Alonzo

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 6/24/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerson Alonzo

Represented By
Inez Tinoco-Vaca

Joint Debtor(s):

Lizeth Alonzo

Represented By
Inez Tinoco-Vaca

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14903 Kathlene Mae Shoults

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kathlene Mae Shoults

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14906 Dari Kelley

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dari Kelley

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14925 Charles Sanchez

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Sanchez

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14926 Hugo Ernesto Perez

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hugo Ernesto Perez

Represented By
Lionel E Giron
Crystle Jane Lindsey

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14929 Adriana Fuentes

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Adriana Fuentes

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-14950 Genaro Flores and Salome Flores

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Genaro Flores

Represented By
Todd L Turoci

Joint Debtor(s):

Salome Flores

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15018 Diana Nava and Ramiro Nava

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Diana Nava

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Ramiro Nava

Represented By
Joseph A Weber
Fritz J Firman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15026 Oswaldo H Perez

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/28/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oswaldo H Perez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15032 Brian Keith Jackson

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian Keith Jackson

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15039 Harmony Rachelle Ramos

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/28/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Harmony Rachelle Ramos

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15043 Jose Carlos Pina

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 6/28/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Carlos Pina

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15060 Susan Lee Miller

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Susan Lee Miller

Represented By
Nicholas Nicholas Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15066 Jason A Hightower

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jason A Hightower

Represented By
Donald J Gagnon III

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15074 Joseph Allen Ornelas

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Allen Ornelas

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15077 Delfino Mendez

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 7/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Delfino Mendez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15117 Michael Colbus and Lisa Colbus

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Colbus

Represented By
Andrew Nguyen

Joint Debtor(s):

Lisa Colbus

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15127 Rosie Montoya Alonzo

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 7/10/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rosie Montoya Alonzo

Represented By
H Christopher Coburn

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15152 Bruno Lara

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruno Lara

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15157 Debra Jane Engers

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 8/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Debra Jane Engers

Represented By
Edgar P Lombera

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15166 Eddie L Fitz

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 7/2/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddie L Fitz

Represented By
Peter L Nisson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15173 Melanie T Torres

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melanie T Torres

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15190 Moises A Aparicio

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Moises A Aparicio

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-15191 Ryan Weddle

Chapter 13

#45.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Weddle

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:00 AM

6:19-13334 Rafael Gonzalez and Sonia Cardenas

Chapter 13

#46.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Joint Debtor(s):

Sonia Cardenas

Represented By
Henry D Paloci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:14-13510 Carmen Lucia Mendez

Chapter 13

#47.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 109

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/3/2019**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carmen Lucia Mendez

Represented By
Sara E Razavi
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:16-12191 Valicia LaShawn Fennell

Chapter 13

#48.00 Trustee's Motion to Dismiss Case re delinquency

EH__

Docket 105

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Valicia LaShawn Fennell

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:16-19890 Rick Gaeta Carreon

Chapter 13

#49.00 CONT Trustee's Motion to Dismiss Case

From: 8/22/19

EH__

Docket 117

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rick Gaeta Carreon

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:16-20163 Sandra M. Hankins

Chapter 13

#50.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 82

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/28/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sandra M. Hankins

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:16-20860 Sara R Cuevas

Chapter 13

#51.00 Trustee's Motion to Dismiss Case (MATERIAL DEFAULT)

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sara R Cuevas

Represented By
Christopher J Langley

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:17-11177 Gary Wayne Turner and Wanda Renay Turner

Chapter 13

#52.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 49

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/2/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gary Wayne Turner

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Wanda Renay Turner

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:17-11831 Gregory Dwight Vit

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 70

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/6/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gregory Dwight Vit

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:17-13729 Paula Rosales

Chapter 13

#54.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paula Rosales

Represented By
William Radcliffe

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:17-14790 Ernesto Ayon Lopez and Dolores Millan Sanchez

Chapter 13

#55.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 58

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/22/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ernesto Ayon Lopez

Represented By
James Geoffrey Beirne

Joint Debtor(s):

Dolores Millan Sanchez

Represented By
James Geoffrey Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:17-17531 Harvey Everett Mosely and Jean Ann Mosely

Chapter 13

#56.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 56

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/2/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Harvey Everett Mosely

Represented By
Paul Y Lee

Joint Debtor(s):

Jean Ann Mosely

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:18-12022 Maribel M Vasquez

Chapter 13

#57.00 CONT Trustee's Motion to Dismiss Case

From: 7/11/19, 8/1/19

EH ____

Docket 50

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/23/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maribel M Vasquez

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:18-14868 Michael J Soriano

Chapter 13

#59.00 CONT Trustee's Motion to Dismiss Case

From: 8/22/19

EH__

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael J Soriano

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:18-15239 Amanda E Curry and Matthew L Curry

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Amanda E Curry

Represented By
Andy C Warshaw

Joint Debtor(s):

Matthew L Curry

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:18-15343 Jennifer Isabella Solares

Chapter 13

#61.00 CONT Trustee's Motion to Dismiss Case

From: 8/22/19

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Isabella Solares

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:18-16996 Gabriel Cruz

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH__

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gabriel Cruz

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:18-17204 Justo Ocegueda

Chapter 13

#63.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 37

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/2/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Justo Ocegueda

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:18-18821 Humberto Camacho, Jr and Sarah Camacho

Chapter 13

#64.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Humberto Camacho Jr

Represented By
Christian N. Cooper

Joint Debtor(s):

Sarah Camacho

Represented By
Christian N. Cooper

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:18-19956 Herman A. Wendorff and Monica Wendorff

Chapter 13

#65.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 44

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/29/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Herman A. Wendorff

Represented By
Daniel King

Joint Debtor(s):

Monica Wendorff

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:18-20413 Jose Ramon Castaneda

Chapter 13

#66.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 40

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
8/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Ramon Castaneda

Represented By
Andrew Moher

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:19-10415 Lewis K. Chism and Latoya A. Chism

Chapter 13

#67.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lewis K. Chism

Represented By
Christopher J Langley

Joint Debtor(s):

Latoya A. Chism

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:19-10684 Rodrigo Flores Saavedra and Juana Garcia De Flores

Chapter 13

#68.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 28

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/2/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rodrigo Flores Saavedra

Represented By
James Geoffrey Beirne

Joint Debtor(s):

Juana Garcia De Flores

Represented By
James Geoffrey Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:19-11041 Caleb J. Bellot and Mandle Lynn Bellot

Chapter 13

#69.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Caleb J. Bellot

Represented By
Daniel King

Joint Debtor(s):

Mandle Lynn Bellot

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:19-11371 Warren Alan Hall and Kelly Suzanne Hall

Chapter 13

#70.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 67

*** VACATED *** REASON: CASE DISMISSED 8/22/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Warren Alan Hall

Represented By
Lionel E Giron

Joint Debtor(s):

Kelly Suzanne Hall

Represented By
Lionel E Giron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

11:01 AM

6:19-11766 Hassan Mohamad Adib Yahya

Chapter 13

#71.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 25

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hassan Mohamad Adib Yahya

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, September 5, 2019

Hearing Room 303

12:00 PM

6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#72.00 CONT Motion To Dismiss Third Amended Cross-Complaint

From: 8/1/19

EH__

Docket 149

Tentative Ruling:

REAL ESTATE BROKER THERESA MANN'S MOTION TO DISMISS THIRD CROSS-COMPLAINT

BACKGROUND

On November 11, 2016, Plaintiffs Mark and Natasha Reynoso ("Plaintiffs") filed an adversarial proceeding against Douglas and Anne Goodman ("Defendants"). Plaintiffs sought to determine the dischargeability of their state court claim against Defendants for misrepresentation. The state court claim was based on the alleged misrepresentations by Defendants and Theresa Mann ("Mann"), Defendants' real estate agent, in regard to the sale of Defendants' home to Plaintiffs. This covered both the actual size of the home, as well as the repairs that needed to be performed on the home.

On June 6, 2017, Defendants filed their first cross-complaint against Mann and Jose Pastora. One May 14, 2019, Defendants filed their third, and most current cross-complaint against Mann and Pastora. Defendants, based on Plaintiffs' claims, allege that it was Mann who made the misrepresentations to Plaintiffs as to the size of the home, and the state of repair of the home, and that Mann held sole responsibility for Plaintiffs' alleged damages. Defendants claim three grounds for relief: (1)- equitable comparative indemnity and apportionment of fault across cross defendants; (2)- total equitable indemnity against all cross defendants; and (3)- negligent misrepresentation.

Defendants request the following relief: (1)- a finding of total and complete indemnity for any judgment rendered against Defendants by Plaintiff; (2)- for judgment in

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CONT... **Douglas Edward Goodman**

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proportionate share from each Cross-Defendant; (3)- for Defendants costs and expenses incurred in the defense of Plaintiff's claim, as well as in bringing their cross-claim against Mann and Pastora, including reasonable attorneys' fees.

On June 7, 2019, counsel for Defendants emailed counsel for Mann to inform him that Defendants and Plaintiffs had settled Plaintiffs' claim. According to Defendants in their opposition to this motion to dismiss (addressed in greater detail below), the settlement was for \$1,600 and involves the dismissal of Plaintiffs' claim. A motion to approve compromise, or a motion to dismiss, as not yet been resolved in the adversarial complaint. In addition, the Court entered an order on July 19, 2019, granting a stipulation between Defendants and Pastora to dismiss Pastora from the cross-complaint.

Mann filed a motion on June 13, 2019, to dismiss the cross-complaint against Mann without leave to amend. Mann bases her argument on two main grounds. The first is that the settlement of the case between Plaintiffs and Defendants has removed the legal basis for the grounds for a claim of indemnification. This is because the settlement had removed any possibility for Defendants to actually be found liable for the claim, and contractual or implied indemnification requires a finding of liability. Second, the Plaintiff's complaint for a finding of nondischargeability was not an appropriate claim to base a third-party complaint on. Third, and on a related note, the requested relief sought is outside of the jurisdiction of the Court as a monetary judgment.

Defendants filed their opposition to Mann's motion to dismiss the cross-complaint on July 18, 2019. Defendants base their opposition on the grounds that, even if the case had been settled between Defendants and Plaintiffs, Defendants had suffered \$26,715.00 in damages from defending Plaintiffs' claim, encompassing \$1,600 from the settlement, and around \$25,115 in attorneys' fees and costs. They allege that the cross-claim had thus not been rendered moot by the settlement, as Defendants were seeking reimbursement from Mann for the damages she allegedly caused. Defendants also claim that the contract between Defendants and Mann included an attorneys' fees and costs provision, which would allow Defendants to seek the fees and costs incurred in pursuing their claim against Mann.

DISCUSSION

Under Civil Rule 12(b)(6), made applicable in adversary proceedings through Rule 7012, a bankruptcy court may dismiss a complaint if it fails to "state a claim upon which relief can be granted." In reviewing a Civil Rule 12(b)(6) motion, the trial court

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must accept as true all facts alleged in the complaint and draw all reasonable inferences in favor of the plaintiff. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). However, the trial court need not accept as true conclusory allegations in a complaint or legal characterizations cast in the form of factual allegations. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–56, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007); *Hartman v. Gilead Scis., Inc. (In re Gilead Scis. Sec. Litig.)*, 536 F.3d 1049, 1055 (9th Cir. 2008).

To avoid dismissal under Civil Rule 12(b)(6), a plaintiff must aver in the complaint "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, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting *Twombly*, 550 U.S. at 570, 127 S.Ct. 1955). It is axiomatic that a claim cannot be plausible when it has no legal basis. A dismissal under Civil Rule 12(b)(6) may be based either on the lack of a cognizable legal theory or on the absence of sufficient facts alleged under a cognizable legal theory. *Johnson v. Riverside Healthcare Sys.*, 534 F.3d 1116, 1121 (9th Cir.2008).

The Court will begin with Mann's arguments that Defendants' cross-complaint/third-party complaint against Mann lacks jurisdiction.

Defendants' primary claim against Mann rests on their request for a monetary judgment against Mann, and Plaintiffs also requested a monetary judgment in their complaint against Defendants. Mann argues that bankruptcy courts do not have the jurisdiction to enter monetary judgments in relation to complaints for nondischargeability. Circuit courts are split as to whether bankruptcy courts have the jurisdiction to enter monetary judgments as part of nondischargeability complaints. 4 COLLIER ON BANKRUPTCY ¶ 523.32 (Richard Levin and Henry Sommer eds., 16th ed.). However, the 9th Circuit is one of the circuits which has found that bankruptcy courts have this jurisdiction. *See In re Kennedy*, 108 F.3d 1015, 1018 (9th Cir. 1997). As such, the Court finds that it has the jurisdiction to hear a request for monetary judgment as part of an adversarial complaint based on a claim for nondischargeability.

Mann correctly argues that the matter before the Court isn't a cross-complaint, but rather is a third-party complaint, under the Federal Rules of Civil Procedure. *See* F.R.C.P. 14(a)(1) (stating that actions that fall under the grounds of a third-party complaint, including a defendant's complaint against a third party who may be liable for all or part of a claim against the defendant). Mann uses this to argue that it is improper for a third-party complaint to seek a monetary judgment when the complaint is attached to an adversarial proceeding in a bankruptcy court based on a complaint for nondischargeability. Mann cites to several cases from the 2nd, 3rd, and 10th Circuits in

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which third party complaints seeking monetary judgments were dismissed as improper when they stemmed from adversarial proceedings based on complaints for a finding of nondischargeability. However, the Court restates that, unlike the 2nd, 3rd, and 10th Circuits, the 9th Circuit does permit monetary judgments in relation to complaints for nondischargeability. *See In re Kennedy*, 108 F.3d at 1018. As such, the Court finds that it has the jurisdiction to hear complaints for monetary judgment in relation to adversarial proceedings based on a complaint for nondischargeability, including third-party complaints for monetary judgments.

Next, the Court will consider Mann's argument that the settling of the case between Plaintiffs and Defendants have rendered Defendants claim for indemnification against Mann moot. Mann's primary argument is that indemnification is dependent on liability, and the settling of the case has removed any potential chance for Defendants to be found liable. However, California law permits a settling party to seek indemnification from a third party for an equitable portion of a settlement. *C.f. Western Steamship Lines, Inc. v. San Pedro Peninsula Hospital*, 8 Cal. 4th 100, 118-9 (Cal. 1994) (reversing a trial court judgment granting a 30% indemnification of a settlement amount, on the grounds that the defendant had not independently proven the portion of the damages that were directly caused by the hospital. In other words, the appellate court found that the defendant could seek indemnification of a settlement with the plaintiff if the defendant could establish the indemnitor's independent liability). As such, Defendants have stated a claim for which relief can be granted by requesting that Mann indemnify Defendants for either a part, or the total, of the settlement agreement between Defendants and Plaintiff.

Next, the Court will consider whether Defendants have stated a claim for which relief may be granted for the recovery of the attorneys' fees and costs incurred by Defendants in defending against Plaintiffs' claim. Under Cal. Code Civ. P. § 1021.6, a party who prevails on a claim for implied indemnity may be awarded the attorneys' fees incurred in defending the underlying complaint if the court finds that: (1) the indemnitee had been required to act in the protection of their interest by defending an action by a third person which stemmed from the tort of the indemnitor; (2) the indemnitor was properly notified of the demand to provide the defense and did not avail itself of the opportunity to do so; and (3) that the trier of fact determined that the indemnitee was without fault in the principal case which is the basis for the action in indemnity, or that the indemnitee had a final judgment entered in their favor granting a summary judgment, a nonsuit, or a directed verdict.

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The claim for relief by Defendants against Mann for attorneys' fees stems from their claim for implied indemnity against Mann. However, while the facts they have stated may be sufficient to satisfy element (1), they are currently insufficient to satisfy the requirements of proper notification under element (2), and the settling of the claim between Defendants and Plaintiffs means that (3) is completely impossible, as a trier of fact will never determine whether Defendants were without fault, nor will there be a final judgment entered in Defendants' favor. As such, since Defendants cannot meet § 1021.6, it does not appear that they can state a claim for which relief can be granted against Mann in relation to the reimbursement of the attorneys' fees and expenses incurred defending against Plaintiffs' claim.

Finally, the Court will address Defendants' request for attorneys' fees and expenses related to the bringing of the third-party complaints against Mann. The Court finds that Defendants have stated a claim upon which relief may be granted.

As such, the Court finds that it has jurisdiction to hear the third-party complaint, and that the settlement between Plaintiffs and Defendants have not rendered the third-party complaint moot. The Court is thus inclined to deny Mann's motion to dismiss the third-party complaint in regard to the claim for indemnification for the \$1,600 in settlement proceeds paid by Defendants to Plaintiffs. In addition, the Court is also inclined to deny the motion to dismiss in regard to Defendants' request for attorneys' fees in relation to the third-party claim brought against Mann. However, the Court is inclined to dismiss with prejudice Defendants' claim against Mann for the attorneys' fees and expenses incurred as a result of Plaintiffs' claim against Defendants.

TENTATIVE RULING

8/1/2019

SERVICE: PROPER

OPPOSITION: YES

THE COURT IS INCLINED TO DENY MOVANT'S MOTION TO DISMISS WITHOUT LEAVE TO AMEND DEFENDANTS' THIRD PARTY COMPLAINT AS TO REQUESTS FOR RELIEF NUMBERS

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CONT... **Douglas Edward Goodman**

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1 AND 2, REGARDING THE TOTAL AND COMPLETE INDEMNITY FOR ANY JUDGMENT RENDERED AGAINST DEFENDANTS AND FOR JUDGMENT IN PROPORTIONATE SHARE FROM EACH CROSS-DEFENDANT. DENY IN REGARD TO THE COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, INCURRED IN BRINGING THE THIRD-PARTY COMPLAINT AGAINST MANN. GRANT IN REGARD TO THE COSTS AND EXPENSES INCURRED IN THE DEFENSE OF PLAINTIFFS' CLAIM AGAINST DEFENDANTS.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Movant(s):

Theresa Mann

Pro Se

Theresa Mann

Represented By
Andrew L Leff

Theresa Mann

Pro Se

Theresa Mann

Represented By
Andrew L Leff

Plaintiff(s):

Mark & Natasha Reynoso

Represented By

**United States Bankruptcy Court
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CONT... Douglas Edward Goodman

Michael J Hemming

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:15-19432 Kirk Eugene Frantz and Mary Elizabeth Frantz

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 152079 Rio Vista Road, Big River, CA 92242

MOVANT: BAYVIEW LOAN SERVICING LLC

From: 5/28/19, 6/4/19, 7/9/19, 7/30/19

EH__

Docket 155

*** VACATED *** REASON: CONTINUED TO 11/5/19 AT 11:00 AM

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Eugene Frantz

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Mary Elizabeth Frantz

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney
Edward G Schloss

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:16-20860 Sara R Cuevas

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 25927 Summer Hill Court, Murrieta, CA 92563

MOVANT: U.S. BANK, NATIONAL ASSOCIATION

EH__

Docket 60

Tentative Ruling:

9/10/2019

Service: Proper

Opposition: Yes

Movant to apprise the Court of the status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sara R Cuevas

Represented By
Christopher J Langley

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:17-18230 Ricardo Munoz and Roseann Munoz

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1554 N Helen Ct, Ontario, California 91762

MOVANT: J.P. MORGAN MORTGAGE ACQUISITION CORP

From: 8/27/19

EH__

Docket 44

***** VACATED *** REASON: ORDER ENTERED 8/28/19**

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ricardo Munoz

Represented By
Michael E Clark

Joint Debtor(s):

Roseann Munoz

Represented By
Michael E Clark

Movant(s):

J.P. Morgan Mortgage Acquisition

Represented By
Gilbert R Yabes

**United States Bankruptcy Court
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Riverside
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Tuesday, September 10, 2019

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11:00 AM

CONT... Ricardo Munoz and Roseann Munoz

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:18-16489 Rebecca Moore

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23093 Canyon Hills Drive, Corona, CA 92883

MOVANT: HSBC BANK USA, NATIONAL ASSOCIATION

EH__

Docket 51

***** VACATED *** REASON: CASE DISMISSED 8/19/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rebecca Moore

Represented By
Edward T Weber

Movant(s):

HSBC Bank USA, National

Represented By
Jamie D Hanawalt
Gilbert R Yabes
Raymond Jereza

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:18-18168 Nicholas Head

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 TOYOTA COROLLA

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH__

Docket 32

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Nicholas Head

Represented By
Christopher Hewitt

Movant(s):

TOYOTA MOTOR CREDIT

Represented By
Erica T Loftis Pacheco

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:18-18504 Elmer Arnold Tompkins

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 804 Tribune Street, Redlands, CA 92374

MOVANT: NEWREZ LLC

EH__

Docket 32

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from § 1301(a) co-debtor stay. GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Elmer Arnold Tompkins

Represented By
Scott Kosner

Movant(s):

NewRez LLC dba Shellpoint

Represented By
Mark S Krause

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:18-18739 Heather Gibson

Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 KIA OPTIMA LX SEDAN 4D (VIN #5XXGT4L34JG266107)

MOVANT: CONSUMER PORTFOLIO SERVICES

EH__

Docket 52

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Heather Gibson

Represented By
Natalie A Alvarado

Movant(s):

Consumer Portfolio Services, Inc.

Represented By
Mark S Krause

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:19-14089 Mario Martinez and Christine Martinez

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 8356 Forest Park Street, Chino, CA 91708

MOVANT: LAKEVIEW LOAN SERVICING LLC

EH__

Docket 16

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief from stay pursuant to 11 U.S.C. § 362(d)(2) because the motion indicates that there is equity in the property. GRANT relief from Rule 4001(a) (3) stay. GRANT requests under ¶¶ 2, 3 and 12.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mario Martinez

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Christine Martinez

Represented By
Terrence Fantauzzi

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Darlene C Vigil

**United States Bankruptcy Court
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11:00 AM

CONT... Mario Martinez and Christine Martinez

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:19-14795 Ricardo Felipe Rodas Landaverde and DYANNA STEFANI

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2012 Tesla Model S, VIN: 5YJSA1DN1CFS00800

MOVANT: TD AUTO FINANCE LLC

EH__

Docket 17

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ricardo Felipe Rodas Landaverde

Represented By
Edward A Bauman Jr

Joint Debtor(s):

DYANNA STEFANI LINARES

Represented By
Edward A Bauman Jr

Movant(s):

TD Auto Finance LLC

Represented By

**United States Bankruptcy Court
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11:00 AM

CONT...

Ricardo Felipe Rodas Landaverde and DYANNA STEFANI

Chapter 7

Sheryl K Ith

Jennifer H Wang

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:19-15606 Victor Manuel Samano, Jr.

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 NTCTI NEW TREND UTILITY

MOVANT: MEDALLION BANK

EH__

Docket 9

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Victor Manuel Samano Jr.

Represented By
Todd L Turoci

Movant(s):

Medallion Bank

Represented By
Erica T Loftis Pacheco

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:19-15700 Ellis Estes

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Dodge Ram (VIN# 1C6RR7GG9FS664441)

MOVANT: NUVISION FEDERAL CREDIT UNION

EH__

Docket 10

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ellis Estes

Represented By
Julie J Villalobos

Movant(s):

NuVision Federal Credit Union

Represented By
Alana B Anaya

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:19-16210 Edward Joey Mish, Jr

Chapter 13

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: Real Property: 12476 13th St, Yucaipa, CA 92399

MOVANT: EDWARD & WENDY SOUSA, AS TRUSTEES OF THE SOUSA REVOCABLE FAMILY TRUST

EH__

Docket 24

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

Before the Court is Movant's renewed motion for relief from stay. The Court notes that Movant filed an earlier motion which was denied by the Court on August 27, 2019. Despite instructions from the Court to lodge an order on the motion, no order was timely lodged. This hearing will be continued for that order denying the last motion to be lodged.

Prior to the hearing of August 27, 2019, the Court posted a tentative ruling noting that notice and service were improper, and also noting three substantive issues with the motion. The Court notes that in its renewed motion, Movant has corrected the notice and service issues noted by the Court. The substantive issues, however, remain materially unresolved by this renewed motion. The following three deficiencies were noted by the Court in its previous tentative ruling:

- (1) Movant requests relief from the § 1301(a) co-debtor stay, yet there has not been service on any co-debtor.
- (2) Second, Movant requests confirmation that no stay is in effect, yet the relevant subsections identified in the motion, § 362(b)(22) and (23), do not appear

**United States Bankruptcy Court
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11:00 AM

CONT...

Edward Joey Mish, Jr

Chapter 13

applicable to this case.

- (3) Third, Movant requests annulment of the automatic stay to validate the unlawful detainer judgment, yet Movant has not provided a declaration or any detailed evidence in support of its request. The Court notes that Movant was listed in the originally creditor mailing matrix, and it is unclear why Movant would not have been aware of the bankruptcy for twenty-seven days.

Regarding the first request, Movant appears to have taken no action to respond to the Court's concern. This renewed motion once again requests relief from the co-debtor stay but contains no service on any co-debtor.

Regarding the second request, the Court notes that Movant has removed the request for the Court to confirm that no stay is in effect, however, the body of the motion has not been altered and continues to contain legally inaccurate assertions.

Regarding the third request, while Movant has provided a declaration providing some detail to support annulment of the automatic stay, that declaration does not address the most important point previously raised by the Court – that Movant was listed in the creditor mailing matrix. Because Movant was listed in the creditor mailing matrix, the Court mailed Movant a notice of bankruptcy filing on July 19, 2019, twenty-four days before Movant states that it received notice. This discrepancy remains unaddressed.

At a continued hearing, once the order has been lodged denying the last motion, the Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief from § 1301(a) co-debtor stay. GRANT waiver of Rule 4001(a)(3) stay. DENY request for annulment of the automatic stay. GRANT request under ¶ 2.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Edward Joey Mish Jr

Represented By
Matthew D. Resnik

Movant(s):

Edward & Wendy Sousa As Trustees

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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11:00 AM

CONT... Edward Joey Mish, Jr

William E Windham

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:19-16308 Sue Ellen Calapardo Guevara

Chapter 7

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 BMW i3 Hatchback 4D

MOVANT: BMW BANK OF NORTH AMERICA

EH__

Docket 8

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Sue Ellen Calapardo Guevara

Represented By
Edgar P Lombera

Movant(s):

BMW Bank of North America

Represented By
Cheryl A Skigin

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:19-16857 Thomas Craig Feeley

Chapter 7

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 HONDA ACCORD VIN 1HGCV3F15JA012268

MOVANT: TD AUTO FINANCE LLC

EH__

Docket 8

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Thomas Craig Feeley

Represented By
Daniel King

Movant(s):

TD Auto Finance LLC

Represented By
Jennifer H Wang

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:19-16926 Zakiyyah Johnson-Salaam

Chapter 13

#15.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 37625 Early Ln., Murrieta, CA 92563

MOVANT: AARON D. WEINFELD AND SHELITA C. WEINFELD TRUSTEES OF THE WEINFELD FAMILY TRUST, DATED DECEMBER 7, 2004

From: 8/27/19

EH__

Docket 9

***** VACATED *** REASON: CASE DISMISSED 8/28/19**

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief pursuant to 11 U.S.C. § 362(d)(2) for lack of cause shown. Specifically, Movant has not provided adequate evidence to demonstrate that Debtor's principal residence is not necessary to an effective reorganization. DENY request for relief from § 1301(a) stay because no co-debtor was served with this motion. GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Zakiyyah Johnson-Salaam

Pro Se

Movant(s):

Aaron D. Weinfield and Shelita C.

Represented By

**United States Bankruptcy Court
Central District of California
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11:00 AM

CONT... Zakiyyah Johnson-Salaam

Scott Andrews

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:19-17200 Michelle Crain

Chapter 13

#16.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Debtors Residence

MOVANT: MICHELLE CRAIN

EH__

Docket 11

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court having reviewed the motion, notice appearing proper and good cause appearing, the Court is inclined to find that the debtor has submitted sufficient evidence to rebut the presumption that the case was filed in bad faith pursuant to 11 U.S.C. § 363(c)(3)(C). Therefore, the Court is inclined to GRANT the motion, CONTINUING the automatic stay as to Bank of New York Mellon c/o Carrington Mortgage Services, LLC.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michelle Crain

Represented By
Dana Travis

Movant(s):

Michelle Crain

Represented By
Dana Travis

**United States Bankruptcy Court
Central District of California
Riverside
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11:00 AM

CONT... Michelle Crain

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, September 10, 2019

Hearing Room 303

11:00 AM

6:19-17211 Leroy Elanders Bray, III

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 10757 Lemon Avenue #1735 Alta Loma, CA 91737

MOVANT: RH PARK ALTA LOMA OWNER LLC

EH__

Docket 7

*** VACATED *** REASON: CASE DISMISSED 9/3/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Leroy Elanders Bray III

Pro Se

Movant(s):

Todd Brisco

Represented By
Todd A Brisco

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, September 10, 2019

Hearing Room 303

2:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#18.00 CONT Motion To Accept Contribution Funds To Pay The Secured Second Trust Deed Holder In Full For The Property Located At 3095 Ocelot Cir, Corona, Ca. 92882 Under Bankruptcy Code Section 105(A)

From: 8/14/19

EH__

Docket 150

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/5/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

Movant(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, September 10, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#19.00 (Jointly Administered - LEAD CASE - 19-13127 MH)

CONT Motion To Compel Assumption Or Rejection Of Defaulted Unexpired Lease Of Personal Property; For Adequate Protection And Maintenance Payments Pursuant To 11 U.S.C. §365(d)(5); And For Relief From Stay In Event Of Rejection Of Lease

From:8/27/19

EH__

Docket 134

*** VACATED *** REASON: STIPULATED ORDER ENTERED 8/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Financial Services Vehicle Trust

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, September 10, 2019

Hearing Room 303

3:30 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#20.00 CONT Motion Seeking An Order: (a) To Show Cause As To Why Timothy Sullivan Should Not Be Held In Contempt For Failing To Comply With The Court's Order Compelling Him To Comply With A Subpoena Duces Tecum; and/or (b) Requiring Timothy Sullivan To Produce Documents Without Redaction; and (c) Reopening Expert Discovery For The Purpose Of Having Timothy Sullivan Appear For Continue Deposition

From: 8/21/19

EH__

Docket 563

Tentative Ruling:

8/21/2019

BACKGROUND

On April 25, 2008, Empire Land, LLC ("Debtor") filed a Chapter 11 voluntary petition. On December 8, 2008, Debtor's case was converted to Chapter 7.

Between March 26, 2010, and April 23, 2010, the Chapter 7 Trustee ("Plaintiff") filed 107 adversary proceedings, including this adversary proceeding, 6:10-1319, in which the primary defendant is Empire Partners, Inc. ("Defendant"). While the instant motion was filed in 6:10-1319, it is also related to two other adversary proceedings, 09-1235 and 10-1329.

During the years of litigation in the instant case, the parties have been embroiled in

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CONT... Empire Land, LLC

Chapter 7

several discovery disputes and have obtained numerous extensions of discovery deadlines. The current discovery dispute began in June 2018, when Defendant served a subpoena *duces tecum* (the "Subpoena") on Timothy Sullivan ("Sullivan"), an expert witness of Plaintiff. Two weeks later, Plaintiff and Sullivan objected to the Subpoena.

On January 9, 2019, Defendant filed a motion to compel compliance with the Subpoena. After two continuances, the Court heard the matter on March 27, 2019, and, on May 9, 2019, entered an order granting the motion in part. Specifically, the Court granted the motion with respect to request for production number one and denied the motion with respect to requests for production numbers two through ten. Request for product number one states the following:

All DOCUMENTS that constitute communications with PLAINTIFF'S COUNSEL that relate to compensation for SULLIVAN'S study or testimony in this LITIGATION. This request includes all communications regarding compensation, as described in the 2010 Advisory Committee Notes, which states:

Under Rule 26(b)(4)(C)(i) attorney-expert communications regarding compensation for the expert's study or testimony may be the subject of discovery. In some cases, this discovery may go beyond the disclosure requirement in Rule 26(a)(2)(B)(vi). It is not limited to compensation for work forming the opinions to be expressed, but extends to all compensation for the study and testimony provided in relation to the action. Any communications about additional benefits to the expert, such as further work in the event of a successful result in the present case, would be included. This exception includes compensation for work done by a person or organization associated with the expert. The objective is to permit full inquiry into such potential sources of bias.

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CONT... Empire Land, LLC

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[Dkt. No. 563, Ex. A]. The Court ordered that the relevant documents be produced within thirty days of the entry of the order.

On May 30, 2019, Defendant received a response to the Subpoena. Defendant characterizes the response as follows:

In contemptuous defiance of the Order, on May 30, 2019, Mr. Sullivan allowed counsel for the Trustee to produce heavily redacted invoices, including those attached to the Declaration of Jeffrey Rosenfeld as Exhibit 1. The communications regarding compensation that were produced on behalf of Mr. Sullivan in redacted form prevented discovery and deposition on crucial information about the work that Mr. Sullivan and others at this firm performed in this matter. Based on the materials that were not redacted, it is obvious that most of the work was done by people other than Mr. Sullivan, since most of the hours identified were billed by others, including Ryan Early, Brent Koenig, JT Schwartz, Adam McAbee, Steve Carr, Ada Kaiser, Lisa Wells, Stiles McCauley, and Peter Dennehy.

[Dkt. No. 563, pg. 12, lines 19-28] (citations omitted). Plaintiff generally argues that the redactions were appropriate because the material redacted was not discoverable under FED. R. CIV. P. Rule 26(b)(4) and pursuant to attorney-client privilege and the work product doctrine.

LEGAL ANALYSIS

Local Rule 9020-1 outlines the two-step process that is initiated when a party in interest seeks a holding finding a party in contempt. First, pursuant to Local Rule 9020-1(b), a motion is filed requesting that the Court issue an order to show cause why a party should not be held in contempt. Pursuant to Local Rule 9020-1(b), the responding party has seven days to respond to the motion. Unsurprisingly, given the short notice window and given the protections afforded by the two-step process, an objection to the issuance of an order to show cause is relatively uncommon. When no objection is filed, the Court

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CONT... Empire Land, LLC

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generally issues the order to show cause pursuant to Local Rule 9020-1(d).

When an objection to the issuance of an order to show cause is filed, however, the local rules do not provide clear instructions as to the proper procedure to be employed. Given the totality of Local Rule 9020-1, which implies that the Court is to hold a hearing and weigh evidence during the second step of the process, the Court concludes that detailed factual findings are not appropriately issued during the first stage of the process, and that the factual assertions made by Defendant are entitled to deference at this initial stage. Therefore, while the parties have provided the Court with a number of exhibits, the Court concludes that the resolution of disputed facts is not appropriate at this stage.

Confining itself to the operative legal dispute, the Court turns to FED. R. CIV. P. Rule 26(b)(4)-(5), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7026, which state, in pertinent part:

(4) Trial Preparation: Experts.

(A) Deposition of an Expert Who May Testify. A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If Rule 26(a)(2)(B) requires a report from the expert, the deposition may be conducted only after the report is provided.

(B) Trial-Preparation Protection for Draft Reports or Disclosures. Rule 26(b)(3)(A) and (B) protect drafts of any report or disclosure required under Rule 26(a)(2), regardless of the form in which the draft is recorded.

(C) Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witness. Rule 26(b)(3)(A) and (B) protect communications between the party's attorney and any witness required to provide a report under Rule 26(a)(2)(B), regardless of the form of the communications, except to the extent that the communications:

- (i) relate to compensation for the expert's student or testimony;
- (ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or
- (iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

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CONT... Empire Land, LLC

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(5) Claiming Privilege or Protecting Trial-Preparation Materials.

(A) Information Withheld. When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparataion material, the party must:

- (i) expressly make the claim; and
- (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed – and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

Here, the basis for the Subpoena was FED. R. CIV. P. Rule 26(b)(4)(C)(i), and the Subpoena closely tracked the language of the provision, while quoting at length from the relevant advisory committee notes.

Defendant asks the Court to focus on the requirements set forth in FED. R. CIV. P. Rule 26(b)(5) for claiming privilege or protecting trial-preparation materials.¹ According to Defendant, because Sullivan did not follow the approach outlined in FED. R. CIV. P. Rule 26(b)(5)(A), Sullivan has waived privilege, and, as a result, could not have properly invoked an applicable privilege in support of the redactions made.

Plaintiff asks the Court to focus on the phrase "otherwise discoverable." According to Plaintiff, because the subject of the redactions was outside the scope of FED. R. CIV. P. Rule 26(b)(4)(C)(i), the subject of the redactions was not discoverable, and, therefore, the procedure outlined in FED. R. CIV. P. Rule 26(b)(5)(A) did not need to be followed.

Because FED. R. CIV. P. Rule 26(b)(4)(C)(i) is a 2010 amendment to the Federal Rules of Civil Procedure, the parties appear to have only provided a single case addressing that subsection, and that case is of limited utility. Nevertheless, the Court believes that a resolution of the current legal dispute is apparent.

First, a brief review of the information outlined in the background section is illustrative. Second request for production number one in the Subpoena closely tracked the language of FED. R. CIV. P. Rule 26(b)(4)(C)(i). After Sullivan objected to the Subpoena, Defendant filed a motion to compel arguing that the scope of request for production number one was permissible under FED. R. CIV. P. Rule 26(b)(4)(C). Third, the Court entered an order compelling compliance

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CONT... Empire Land, LLC

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with request for production number one – a natural result given that the request for production closely tracked, and did not exceed, the limits of discoverable information under FED. R. CIV. P. Rule 26(b)(4)(C). This case is not a case where a litigant served an overly broad subpoena, which targeted both properly discoverable and privileged information, forcing the other party to assert a privilege to restrict the scope of the subpoena. Instead, the subpoena issued by Defendant was, from the beginning, reasonable and properly tailored to limit the request to discoverable information. Because the subpoena did not seek privileged information, there was no need for Sullivan to respond by invoking privilege through the procedures of FED. R. CIV. P. Rule 26(b)(5)(A).

Instead, it appears that Defendant is now asking to increase the scope of the Subpoena, requesting new information that was not within its original scope. As noted by Defendant in its motion to compel:

RFP # 1 seeks discovery of all communications between plaintiff's counsel and the expert that relate to the expert's compensation. The request is based on the language adopted in 2010 as Fed. R. Civ. Proc. 26(b)(4)(C)(i), and incorporates the 2010 Advisory Committee Notes with respect to the type of discovery that is permitted with respect to communications regarding compensation.

[Dkt. No. 495, pg. 15, lines 11-17]. And, as noted earlier, because the Subpoena was properly and narrowly drafted from the beginning, the Court granted Defendant's motion to compel with respect to document production number one.

As noted by the court in *Davita Healthcare Partners, Inc. v. United States*, 128 Fed. Cl. 584: "As the 2010 Advisory Committee Note suggests, the focus of permitted discovery is on the amount of expert compensation, not on the tasks performed that led to compensation." Quite simply, in attempting to argue that Sullivan has waived privilege related to this supplemental information, Defendant ignores the fact that the scope of the Subpoena never targeted this supplemental information in the first place.

To the extent Plaintiff raises the argument, for the reasons detailed in Defendant's motion and reply, the Court disagrees with Plaintiff's contention that "[a] privilege log is only required where, in response to a discovery request, a party withholds information that is 'otherwise discoverable.'" [Dkt. No. 567, pg. 9, lines 17-18]. On the other hand, the Court agrees with Plaintiff's more limited argument that:

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CONT...

Empire Land, LLC

Chapter 7

Since Request No. 1 sought "attorney-expert communications" that fall within the exception in Rule 26(b)(4)(C)(i), the Request necessarily did not require the production of detailed work descriptions in the invoice back-up documents that fall outside the exception. Accordingly, the Trustee and Mr. Sullivan did not need to assert attorney-client privilege or work product objections to Request No. 1 in order to protect the detailed work descriptions in those invoice back-up documents."

The Court notes that to the extent the redacted information actually constituted information within the scope of FED. R. CIV. P. Rule 26(b)(4)(C)(i), then the Court would consider the redactions to be violations of the Court's order compelling a response to request for production number one. While there are portions of Defendant's motion which do raise that contention, the pleadings presented to the Court seem primarily focused on whether redactions were improper because any applicable privilege was waived.

For the foregoing reasons, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I. Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

Jonathan A Loeb

Jeffrey Rosenfeld

P Sabin Willett

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CONT... Empire Land, LLC

Chapter 7

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Movant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

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CONT... Empire Land, LLC
Neil M Miller

Chapter 7

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder
Cynthia M Cohen
Roye Zur
Alexander J Suarez

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 11, 2019

Hearing Room 303

10:00 AM

6:19-14673 Daniel Alfred Fox

Chapter 7

#1.00 Reaffirmation Agreement Between Debtor and Alaska USA Federal Credit Union
re 2015 Chevrolet Camaro

EH__

Docket 13

Party Information

Debtor(s):

Daniel Alfred Fox

Represented By
Yolanda Flores-Burt

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Wednesday, September 11, 2019

Hearing Room 303

10:00 AM

6:19-15309 Megan Anne Lynch and Daniel Eric Lynch

Chapter 7

#2.00 Reaffirmation Agreement Between Debtor and Kia Motors Finance re 2018 Kia Forte

EH__

Docket 11

Party Information

Debtor(s):

Megan Anne Lynch Pro Se

Joint Debtor(s):

Daniel Eric Lynch Pro Se

Trustee(s):

Todd A. Frealy (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, September 11, 2019

Hearing Room 303

10:00 AM

6:19-15430 Jessica Y Solis

Chapter 7

#3.00 Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation
re 2013 Toyota Corolla

EH__

Docket 8

Party Information

Debtor(s):

Jessica Y Solis

Represented By
Gilbert A Diaz

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, September 11, 2019

Hearing Room 303

10:00 AM

6:19-15534 Xavier Mayagoitia Ramirez and Ana Janeth Ramirez

Chapter 7

#4.00 Reaffirmation Agreement Between Debtor and Santander Consumer USA Inc.
re 17 Jeep Grand Cherokee

EH__

Docket 14

Party Information

Debtor(s):

Xavier Mayagoitia Ramirez

Represented By
Michael H Colmenares

Joint Debtor(s):

Ana Janeth Ramirez

Represented By
Michael H Colmenares

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 11, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:14-01248 Revere Financial Corporation, a California corpora v. Roger, MD

#5.00 CONT Defendants Motion For Summary Judgment Or In The Alternative For Partial Summary Judgment

From: 9/4/19

EH__

Docket 147

***** VACATED *** REASON: ORDER TO STAY PROCEEDINGS FILED
8/16/19**

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Douglas J Roger MD

Represented By
Summer M Shaw
Thomas J Eastmond
Marc C Forsythe

Movant(s):

Douglas J Roger MD

Represented By
Summer M Shaw
Thomas J Eastmond
Marc C Forsythe

Plaintiff(s):

Revere Financial Corporation, a

Represented By
Franklin R Fraley Jr

Jerry Wang

Represented By

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CONT... Douglas Jay Roger

Chapter 7

Franklin R Fraley Jr
Anthony J Napolitano

A. Cisneros

Represented By
Chad V Haes
D Edward Hays

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

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Wednesday, September 11, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:14-01248 Revere Financial Corporation, a California corpora v. Roger, MD

#6.00 CONT Status Conference RE: Amended Complaint (First) by Revere Financial Corporation and Jerry Wang, as State-Court Appointed Receiver by Franklin R Fraley Jr on behalf of Revere Financial Corporation, a California corporation against Revere Financial Corporation, a California corporation. (Attachments: # 1 Exhibit 1-8)

From: 4/25/18, 6/13/18, 8/22/18, 10/31/18, 7/31/19

EH__

Docket 82

***** VACATED *** REASON: CONTINUED TO 11/20/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Douglas J Roger MD

Represented By
Summer M Shaw
Thomas J Eastmond
Marc C Forsythe

Plaintiff(s):

Revere Financial Corporation, a

Represented By
Franklin R Fraley Jr

Jerry Wang

Represented By
Franklin R Fraley Jr
Anthony J Napolitano

A. Cisneros

Represented By
Chad V Haes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 11, 2019

Hearing Room 303

2:00 PM

CONT... Douglas Jay Roger

Chapter 7

D Edward Hays

Trustee(s):

Helen R. Frazer (TR)

Represented By

Arjun Sivakumar

Carmela Pagay

Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 11, 2019

Hearing Room 303

2:00 PM

6:18-20756 Karl W Detlefsen

Chapter 7

Adv#: 6:19-01057 Maslar v. Detlefsen

#7.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01057. Complaint by Jennifer Maslar against Karl W Detlefsen. willful and malicious injury))

From: 6/5/19, 8/21/19

EH__

Docket 1

***** VACATED *** REASON: JUDGMENT ENTERED 8/26/19**

Party Information

Debtor(s):

Karl W Detlefsen

Represented By
Christopher Hewitt

Defendant(s):

Karl W Detlefsen

Pro Se

Plaintiff(s):

Jennifer Maslar

Represented By
Sanaz S Bereliani

Trustee(s):

Robert Whitmore (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Wednesday, September 11, 2019

Hearing Room 303

2:00 PM

6:18-17431 James Michael Gorman

Chapter 7

Adv#: 6:19-01102 Trinidad Navarro, Insurance Commissioner of the S v. Gorman

#8.00 Status Conference RE: [1] Adversary case 6:19-ap-01102. Complaint by Trinidad Navarro, Insurance Commissioner of the State of Delaware, in his capacity as the Receiver of Ullico Casualty Company against James Michael Gorman. fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Arnold, Todd)

EH__

Docket 1

Party Information

Debtor(s):

James Michael Gorman Pro Se

Defendant(s):

James Michael Gorman Pro Se

Plaintiff(s):

Trinidad Navarro, Insurance Represented By
Todd M Arnold

Trustee(s):

Arturo Cisneros (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:13-28666 Mildred Goodridge Crawford

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15742 RIO BLANCO TRAIL, MORENO VALLEY, CA 92555

MOVANT: THE MORENO VALLEY RANCH COMMUNITY ASSOCIATION

EH__

Docket 249

Tentative Ruling:

9/17/2019

Service is proper
Opposition: Debtor

Debtor has not presented any evidence or itemization in support of the arrears she disputes. The Court is Inclined to GRANT the requested relief except for the request for in rem relief.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mildred Goodridge Crawford

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Movant(s):

The Moreno Valley Ranch

Represented By
Erin A Maloney

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

CONT... Mildred Goodridge Crawford

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:16-15914 Maria Aurora Chaidez Grajeda

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Dodge Ram 1500 Quad Cab SLT 1C6RR6GG7HS651216

MOVANT: CONSUMER PORTFOLIO SERVICES, INC.

From: 7/30/19, 8/27/19, 9/3/19

EH __

Docket 43

Tentative Ruling:

9/17/2019

Service is Proper
Opposition: Debtor

Parties to apprise the court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

7/30/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

CONT... Maria Aurora Chaidez Grajeda

Chapter 13

Party Information

Debtor(s):

Maria Aurora Chaidez Grajeda

Represented By
Nicholas Nicholas Wajda

Movant(s):

Consumer Portfolio Services, Inc.

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:16-20659 Romy Abalunan Geraldo and Bernadine Nieves Geraldo

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2767 Libra Dr., Riverside, California 92503-6018

MOVANT: NEWREZ LLC

From: 8/20/19, 9/3/19

EH__

Docket 63

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the cure of the arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Romy Abalunan Geraldo

Represented By
John F Brady

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

CONT... Romy Abalunan Geraldo and Bernadine Nieves Geraldo

Chapter 13

Joint Debtor(s):

Bernadine Nieves Geraldo

Represented By
John F Brady

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:16-20860 Sara R Cuevas

Chapter 13

#4.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 25927 Summer Hill Court, Murrieta, CA 92563

MOVANT: U.S. BANK, NATIONAL ASSOCIATION

From: 9/10/19

EH__

Docket 60

Tentative Ruling:

9/10/2019

Service: Proper
Opposition: Yes

Movant to apprise the Court of the status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sara R Cuevas

Represented By
Christopher J Langley

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:17-11010 Gary F Pico and Mercedes P. Pico

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 39119 Crown Ranch Road, Temecula, California 92591

MOVANT: LAKEVIEW LOAN SERVICING LLC

EH__

Docket 41

Tentative Ruling:

9/17/2019

Service is Proper
Opposition: Debtors

Parties to apprise the court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gary F Pico

Represented By
Gregory Ashcraft

Joint Debtor(s):

Mercedes P. Pico

Represented By
Gregory Ashcraft

Movant(s):

Lakeview Loan Servicing, LLC by

Represented By
Mark S Krause

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

CONT... Gary F Pico and Mercedes P. Pico

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:18-11407 Rushelyn Napalan

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6747 Woodrush Way, Corona, California 92880

MOVANT: BANK OF AMERICA, N.A.

EH__

Docket 45

Tentative Ruling:

9/17/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 6. DENY alternative request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Rushelyn Napalan

Represented By
Paul Y Lee

Movant(s):

Bank of America, N.A.

Represented By
Nancy L Lee
Mary D Vitartas
Gilbert R Yabes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

CONT... Rushelyn Napalan

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:18-15026 Joe R Garcia

Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15420 BELLO WAY, MORENO VALLEY, CA 92555

MOVANT: THE MORENO VALLEY RANCH COMMUNITY ASSOCIATION

EH__

Docket 43

***** VACATED *** REASON: ORDER ENTERED 9/12/19**

Tentative Ruling:

9/17/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT requests under ¶ 2. DENY request under ¶ 10 for lack of cause shown.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Joe R Garcia

Represented By
Neil R Hedtke

Movant(s):

Moreno Valley Ranch Community

Represented By
Erin A Maloney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:19-15013 Lucy Wieder

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA CIVIC, VIN: 2HGF C2F6 XHH5 08929

MOVANT: HONDA LEASE TRUST

EH__

Docket 10

Tentative Ruling:

9/17/2019

Service is Proper
Opposition: None

11 U.S.C. §365(p)(1) provides for the automatic termination of the automatic stay with respect to a lease of personal property which is rejected or not timely assumed. Here, debtor did not timely assume the lease. Therefore, the automatic stay has already been terminated, and the Court is inclined to Deny the motion as moot.

APPEARANCE REQUIRED.

Party Information

Debtor(s):

Lucy Wieder

Represented By
Susan Jill Wolf

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:19-15606 Victor Manuel Samano, Jr.

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 TOYOTA COROLLA

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH__

Docket 11

Tentative Ruling:

9/17/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § §362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Victor Manuel Samano Jr.

Represented By
Todd L Turoci

Movant(s):

TOYOTA MOTOR CREDIT

Represented By
Erica T Loftis Pacheco

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:19-15740 Jose Alfredo Valdez-Higuera

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Yamaha YFM70RSXHL

MOVANT: YAMAHA MOTOR FINANCE CORP

EH__

Docket 8

Tentative Ruling:

9/17/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose Alfredo Valdez-Higuera

Represented By
Jenny L Doling

Movant(s):

Yamaha Motor Finance Corp.

Represented By
Karel G Rocha

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:19-16210 Edward Joey Mish, Jr

Chapter 13

#11.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: Real Property: 12476 13th St, Yucaipa, CA 92399

MOVANT: EDWARD & WENDY SOUSA, AS TRUSTEES OF THE SOUSA REVOCABLE FAMILY TRUST

From: 9/10/19

EH__

Docket 24

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

Before the Court is Movant's renewed motion for relief from stay. The Court notes that Movant filed an earlier motion which was denied by the Court on August 27, 2019. Despite instructions from the Court to lodge an order on the motion, no order was timely lodged. This hearing will be continued for that order denying the last motion to be lodged.

Prior to the hearing of August 27, 2019, the Court posted a tentative ruling noting that notice and service were improper, and also noting three substantive issues with the motion. The Court notes that in its renewed motion, Movant has corrected the notice and service issues noted by the Court. The substantive issues, however, remain materially unresolved by this renewed motion. The following three deficiencies were noted by the Court in its previous tentative ruling:

- (1) Movant requests relief from the § 1301(a) co-debtor stay, yet there has not been service on any co-debtor.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

CONT...

Edward Joey Mish, Jr

Chapter 13

- (2) Second, Movant requests confirmation that no stay is in effect, yet the relevant subsections identified in the motion, § 362(b)(22) and (23), do not appear applicable to this case.
- (3) Third, Movant requests annulment of the automatic stay to validate the unlawful detainer judgment, yet Movant has not provided a declaration or any detailed evidence in support of its request. The Court notes that Movant was listed in the originally creditor mailing matrix, and it is unclear why Movant would not have been aware of the bankruptcy for twenty-seven days.

Regarding the first request, Movant appears to have taken no action to respond to the Court's concern. This renewed motion once again requests relief from the co-debtor stay but contains no service on any co-debtor.

Regarding the second request, the Court notes that Movant has removed the request for the Court to confirm that no stay is in effect, however, the body of the motion has not been altered and continues to contain legally inaccurate assertions.

Regarding the third request, while Movant has provided a declaration providing some detail to support annulment of the automatic stay, that declaration does not address the most important point previously raised by the Court – that Movant was listed in the creditor mailing matrix. Because Movant was listed in the creditor mailing matrix, the Court mailed Movant a notice of bankruptcy filing on July 19, 2019, twenty-four days before Movant states that it received notice. This discrepancy remains unaddressed.

At a continued hearing, once the order has been lodged denying the last motion, the Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief from § 1301(a) co-debtor stay. GRANT waiver of Rule 4001(a)(3) stay. DENY request for annulment of the automatic stay. GRANT request under ¶ 2.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Edward Joey Mish Jr

Represented By
Matthew D. Resnik

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

CONT... Edward Joey Mish, Jr

Chapter 13

Movant(s):

Edward & Wendy Sousa As Trustees

Represented By
William E Windham

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

11:00 AM

6:19-16786 Donald Kent Schiro

Chapter 7

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2005 Chevrolet Colorado LS VIN 1GCCS136058161356

MOVANT: NASA FEDERAL CREDIT UNION

EH__

Docket 13

Tentative Ruling:

9/17/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Donald Kent Schiro

Represented By
Robert L Firth

Movant(s):

NASA Federal Credit Union

Represented By
Diana Torres-Brito

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:17-15816 Integrated Wealth Management Inc

Chapter 11

Adv#: 6:19-01100 Issa v. Delaney et al

#13.00 Status Conference RE: [1] Adversary case 6:19-ap-01100 Complaint by J. Michael Issa against Ryan Delaney, John Wong, DOES 1 through 10, inclusive. (Charge To Estate)(\$350.00) for: 1) Breach of Fiduciary Duty; and Negligence [Demand for Jury Trial] Nature of Suit: (14 (Recovery of money/property - other)) (Ignatuk, Joseph)

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 10/15/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Integrated Wealth Management Inc

Represented By
Andrew B Levin
Robert E Opera
Jim D Bauch

Defendant(s):

Ryan Delaney

Represented By
Paul A Reynolds

John Wong

Represented By
David P Bleistein

Plaintiff(s):

J. Michael Issa

Represented By
Joseph R Ignatuk

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#14.00 Insurance Company of the West 's Notice of Motion and Motion for Summary Judgment or, In the Alternative, for Attorneys' Fees and Costs Pursuant to the Common Fund Doctrine

From: 7/16/19

Also #15 & #16

EH__

Docket 74

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

United states of america

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

CONT... ASR Constructors Inc a California Corporation Chapter 11

Charles Parker
Najah J Shariff

Carlin Law Group APC

Represented By
Kevin R Carlin

DOES 1 through 10, inclusive

Pro Se

Movant(s):

Insurance Company Of The West

Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Plaintiff(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#15.00 CONT Plaintiff's Notice of Additional Funds to Interplead; Declaration of Melissa Davis Lowe in Support Thereof
(HOLDING DATE)

From: 7/30/19

Also #14 & #16

EH ____

Docket 87

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

United states of america

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

CONT... ASR Constructors Inc a California Corporation Chapter 11

Charles Parker
Najah J Shariff

Carlin Law Group APC

Represented By
Kevin R Carlin

DOES 1 through 10, inclusive

Pro Se

Movant(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

Plaintiff(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#16.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01286. Complaint by ASR Constructors Inc a California Corporation, Another Meridian Company, LLC, Inland Machinery, Inc. against Gotte Electric, Inc., Insurance Company Of The West, Employment Development Department, Trico-Savi Business Park, L.P., a California limited partnership, Angela Denise McKnight, Steven Schonder, Western Alliance Bank, an Arizona corporation, United states of america, Carlin Law Group APC, Leducor Construction, Inc., a Washington corporation, DOES 1 through 10, inclusive. (Charge To Estate - \$350.00). Complaint in Interpleader Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Bastian, James)
Trico-Savi Business Park L.P. - Dismissed 12/28/17
Western Alliance Bank, dba Torrey Pines Bank - Dismissed 2/1/18
Gotte Electric, Inc - Dismissed 3/14/18
Leducor Construction Inc - Dismissed 3/26/18

From: 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19, 5/8/19, 7/31/19

Also #14 & #15

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

CONT... ASR Constructors Inc a California Corporation

Chapter 11

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

United states of america

Represented By
Charles Parker
Najah J Shariff

Carlin Law Group APC

Represented By
Kevin R Carlin

DOES 1 through 10, inclusive

Pro Se

Plaintiff(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#17.00 (Jointly Administered with Another Meridian Company LLC)
CONT Order (1) Setting Scheduling Hearing and Case Management
Conference and (2) Requiring Status Report

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18,
10/16/18, 12/19/18, 2/27/19, 5/8/19, 7/31/19

Also #18 & #19

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#18.00 (Jointly Administered with Inland Machinery Inc)
CONT Order (1) Setting Scheduling Hearing and Case Management
Conference and (2) Requiring Status Report

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18,
10/16/18, 12/19/18, 2/27/19, 5/8/19, 7/31/19

Also #17 & #19

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#19.00 (Jointly Administered - LEAD CASE)

CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19, 5/8/19, 7/31/19

Also #17 & #18

EH__

Docket 630

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#20.00 Application for Compensation First Interim Application for Allowance of Fees and Costs By Marshack Hays LLP as the Committee of Unsecured Creditor's General Counsel for David Wood, General Counsel, Period: 9/4/2018 to 7/31/2019, Fee: \$100,281.00, Expenses: \$1,276.05.

Also #21 - #24

EH__

Docket 455

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

Movant(s):

Committee of Creditors Holding

Represented By
David Wood
Richard A Marshack

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#21.00 Application for Compensation / First Interim Fee Application of the Patient Care Ombudsman, Jerry Seelig, for Compensation and Reimbursement of Expenses; Declaration of Jerry Seelig in Support Thereof for Jerry Seelig, Ombudsman Health, Period: 9/13/2018 to 8/25/2019, Fee: \$36,146.50, Expenses: \$1,061.40.

Also #20 - #24

EH__

Docket 457

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

Movant(s):

Jerry Seelig

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#22.00 Application for Compensation / First Interim Fee Application of Seelig+Cussigh HCO LLC, Consultants to the Patient Care Ombudsman, for Compensation and Reimbursement of Expenses; Declaration of Richard Cussigh in Support Thereof for Seelig+Cussigh HCO LLC, Consultant, Period: 9/13/2018 to 8/25/2019, Fee: \$14,985.00, Expenses: \$4,081.00.

Also #20 - #24

EH__

Docket 458

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

Movant(s):

Jerry Seelig

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, September 17, 2019

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2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#23.00 Application for Compensation First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses of Weiland Golden Goodrich LLP, Counsel for the Debtor and Debtor-in- Possession; Declaration of David M. Goodrich in Support (with Proof of Service) for Weiland Golden Goodrich LLP, Debtor's Attorney, Period: 9/24/2018 to 8/15/2019, Fee: \$246,935.00, Expenses: \$4,230.61.

Also #20 - #24

EH__

Docket 459

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#24.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 10/30/18, 11/13/18, 12/18/18, 2/26/19, 3/27/19, 5/1/19, 7/30/19

Also #20 - #23

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#25.00 CONT Status Conference re Post Confirmation of Chapter 11 Plan

From: 5/7/19

Also #26

EH__

Docket 197

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 17, 2019

Hearing Room 303

2:00 PM

6:18-18339 Technology Solutions & Services, Inc., a Californi

Chapter 11

#26.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 11/6/18, 12/18/18, 1/29/19, 3/5/19, 5/7/19

Also #25

EH__

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Technology Solutions & Services,

Represented By
Leonard M Shulman
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

11:00 AM

6:12-23460 Jenny Luz Andrino

Chapter 7

#1.00 Debtor's Motion to Avoid Lien under 11 U.S.C. Section 522(f) with American Express Bank, FSB

Also #2

EH ____

Docket 39

Tentative Ruling:

9/18/2019

Service: Proper

Opposition: None

On May 31, 2012, Jenny Andrino ("Debtor") filed a Chapter 7 voluntary petition. On September 10, 2012, Debtor received a Chapter 7 discharge, and eight days later the case was closed.

On February 8, 2019, the case was reopened for Debtor to file motions to avoid judgment liens. No action was timely taken by Debtor, however, and the case was closed on April 10, 2019. On July 19, 2019, the case was reopened a second time for Debtor to file motions to avoid judgment liens. On July 22, 2019, Debtor amended certain schedules, including Schedule C. The Court notes that this amendment appears to be improper pursuant to FED. R. BANKR. P. Rules 1009(a) and 9006(b)(1). Nevertheless, 11 U.S.C. § 522(f)(1) refers to an exemption "to which the debtor would have been entitled," and does not seem to impose a requirement that the exemption be properly claimed.

**United States Bankruptcy Court
Central District of California
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Wednesday, September 18, 2019

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11:00 AM

CONT... Jenny Luz Andrino

Chapter 7

On July 30, 2019, Debtor filed two motions to avoid lien affecting American Express Bank FSP and Citibank (South Dakota) N.A., These motions were subsequently amended on August 1, 2019, and August 12, 2019. On September 3, 2019, the Court set the matters for hearing.

The Court notes that the evidence of the fair market value of the subject real property consists of a Broker's Opinion that is "as of" May 9, 2019. The proper date for determining the value of the subject real property is, however, the petition date. *See, e.g., In re Vokac*, 273 B.R. 553 (Bankr. N.D. Ill. 2002); *In re Abrahamzadeh*, 162 B.R. 676 (Bankr. D.N.J. 1994); *In re Finn*, 151 B.R. 25 (Bankr. N.D.N.Y. 1992); *In re Sanglier*, 124 B.R. 511 (Bankr. E.D. Mich. 1991); *In re Truan*, 121 B.R. 9 (Bankr. S.D. Tex. 1990) ("The appropriate time focus for valuation of Debtors' equity for a Section 522(f) lien avoidance proceeding is the date on which the petition was filed.").

The Court is inclined to CONTINUE the matter for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jenny Luz Andrino

Represented By

Julieann Sayegh Farraj

Priscilla C Solario

Movant(s):

Jenny Luz Andrino

Represented By

Julieann Sayegh Farraj

Julieann Sayegh Farraj

Priscilla C Solario

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

11:00 AM

CONT... Jenny Luz Andrino

Priscilla C Solario

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

11:00 AM

6:12-23460 Jenny Luz Andrino

Chapter 7

#2.00 Debtor's Motion to Avoid Lien under 11 U.S.C. Section 522(f) with Citibank (South Dakota) N.A.

Also #1

EH ____

Docket 40

Tentative Ruling:

9/18/2019

Service: Proper

Opposition: None

On May 31, 2012, Jenny Andrino ("Debtor") filed a Chapter 7 voluntary petition. On September 10, 2012, Debtor received a Chapter 7 discharge, and eight days later the case was closed.

On February 8, 2019, the case was reopened for Debtor to file motions to avoid judgment liens. No action was timely taken by Debtor, however, and the case was closed on April 10, 2019. On July 19, 2019, the case was reopened a second time for Debtor to file motions to avoid judgment liens. On July 22, 2019, Debtor amended certain schedules, including Schedule C. The Court notes that this amendment appears to be improper pursuant to FED. R. BANKR. P. Rules 1009(a) and 9006(b)(1). Nevertheless, 11 U.S.C. § 522(f)(1) refers to an exemption "to which the debtor would have been entitled," and does not seem to impose a requirement that the exemption be properly claimed.

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Central District of California
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Wednesday, September 18, 2019

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11:00 AM

CONT... Jenny Luz Andrino

Chapter 7

On July 30, 2019, Debtor filed two motions to avoid lien affecting American Express Bank FSP and Citibank (South Dakota) N.A., These motions were subsequently amended on August 1, 2019, and August 12, 2019. On September 3, 2019, the Court set the matters for hearing.

The Court notes that the evidence of the fair market value of the subject real property consists of a Broker's Opinion that is "as of" May 9, 2019. The proper date for determining the value of the subject real property is, however, the petition date. *See, e.g., In re Vokac*, 273 B.R. 553 (Bankr. N.D. Ill. 2002); *In re Abrahamzadeh*, 162 B.R. 676 (Bankr. D.N.J. 1994); *In re Finn*, 151 B.R. 25 (Bankr. N.D.N.Y. 1992); *In re Sanglier*, 124 B.R. 511 (Bankr. E.D. Mich. 1991); *In re Truan*, 121 B.R. 9 (Bankr. S.D. Tex. 1990) ("The appropriate time focus for valuation of Debtors' equity for a Section 522(f) lien avoidance proceeding is the date on which the petition was filed.").

The Court is inclined to CONTINUE the matter for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jenny Luz Andrino

Represented By

Julieann Sayegh Farraj

Priscilla C Solario

Movant(s):

Jenny Luz Andrino

Represented By

Julieann Sayegh Farraj

Julieann Sayegh Farraj

Priscilla C Solario

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

11:00 AM

CONT... Jenny Luz Andrino

Priscilla C Solario

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

11:00 AM

6:15-18887 Manors San Bernardino Ave LLC

Chapter 7

#3.00 Motion to Allow Claim 7 filed by Norman Musselman as Secured, Allowing as an Unsecured Claim

Also #4

EH__

Docket 144

Tentative Ruling:

9/18/19

BACKGROUND:

On September 8, 2015, Norman Musselman, Erwin Seifert, and Gouvis Engineering Consulting Group (individually, "Musselman," "Seifert," and "Gouvis"; collectively, "Petitioning Creditors") filed an involuntary petition against Manors San Bernardino Ave. LLC ("Debtor"). On November 13, 2015, the Court entered an order for relief.

On March 15, 2016, Musselman filed a proof of claim for a secured claim in the amount of \$763,487.22 ("Claim 7"). Claim 7 was identified as secured by certain real property (the "Property") located in Fontana, California, which had an identified value of \$3,750,000. On March 18, 2016, Seifert filed a proof of claim for a claim in the amount of \$193,307.12 ("Claim 9"). Claim 9 included a secured claim in the amount of \$125,239.94, and a priority claim in the amount of \$12,475. Claim 9 was identified as being partially secured by the Property.

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Wednesday, September 18, 2019

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11:00 AM

CONT... Manors San Bernardino Ave LLC

Chapter 7

On February 18, 2016, the senior lienholder on the Property, The Alpay Living Trust Dated 10/18/96 ("Creditor"), filed a motion for relief from the automatic stay, seeking to foreclose on the Property. This motion was opposed by both Petitioning Creditors and the Chapter 7 Trustee. On March 11, 2016, Trustee filed an application to employ real estate broker, and, on June 6, 2016, Trustee filed a complaint against Creditor to determining the validity, priority or extent of the Creditor's lien. On July 8, 2016, however, the Court granted Creditor relief from the automatic stay.

On May 18, 2017, Trustee filed a motion to approve compromise with Creditor. Pursuant to the terms of the compromise, Trustee received \$40,000 from Creditor, in return for Trustee's dismissal of the pending adversary proceeding and Trustee's renunciation of an interest in the property. [Dkt. No. 81, Ex. 1, Paragraphs 10.1-10.4].

On August 19, 2019, Trustee filed objections to Claim 7 and Claim 9, arguing that the claims were no longer secured. The Court has not received any timely opposition to the objections.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP

**United States Bankruptcy Court
Central District of California
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CONT... **Manors San Bernardino Ave LLC**

Chapter 7

9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

The Court notes that the instant claim objections are cursory and do not contain any legal analysis or argument. The Court further notes that these claim objections do not appear to be properly brought as claim objections, but, instead, are appropriately deemed to be motions to value under 11 U.S.C. § 506(a)(1). Section 506(a)(1) states:

An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553

**United States Bankruptcy Court
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CONT...

Manors San Bernardino Ave LLC

Chapter 7

of this title, *is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property*, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to setoff is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.

(emphasis added). Here, pursuant to the terms of the settlement reached with creditor, which was approved by the Court on June 15, 2017, Trustee effectively abandoned any interest in the Property. Therefore, the estate no longer having any interest in the Property, the claims of Musselman and Seifert cannot be secured by the Property.

Additionally, notice being proper, the Court deems the failure to Musselman and Seifert to oppose to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to SUSTAIN the objections, allowing Claim 7 as an unsecured claim in the amount of \$763,487.22, and allowing Claim 9 as a priority unsecured claim in the amount of \$12,475 and a generally unsecured claim in the amount of \$193,307.12

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
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11:00 AM

CONT... Manors San Bernardino Ave LLC

Chapter 7

Debtor(s):

Manors San Bernardino Ave LLC

Represented By
Gaurav Datta - INACTIVE -

Movant(s):

John P Pringle (TR)

Represented By
Larry D Simons
Scott Talkov
Frank X Ruggier

Trustee(s):

John P Pringle (TR)

Represented By
Larry D Simons
Scott Talkov
Frank X Ruggier

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6:15-18887 Manors San Bernardino Ave LLC

Chapter 7

#4.00 Motion to Disallow Claims No. 9 filed by Erwin L. Seifert as a Secured Claim and to Allow Said Claim as Unsecured

Also #3

EH__

Docket 146

Tentative Ruling:

9/18/19

BACKGROUND:

On September 8, 2015, Norman Musselman, Erwin Seifert, and Gouvis Engineering Consulting Group (individually, "Musselman," "Seifert," and "Gouvis"; collectively, "Petitioning Creditors") filed an involuntary petition against Manors San Bernardino Ave. LLC ("Debtor"). On November 13, 2015, the Court entered an order for relief.

On March 15, 2016, Musselman filed a proof of claim for a secured claim in the amount of \$763,487.22 ("Claim 7"). Claim 7 was identified as secured by certain real property (the "Property") located in Fontana, California, which had an identified value of \$3,750,000. On March 18, 2016, Seifert filed a proof of claim for a claim in the amount of \$193,307.12 ("Claim 9"). Claim 9 included a secured claim in the amount of \$125,239.94, and a priority claim in the amount of \$12,475. Claim 9 was identified as being partially secured by the Property.

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CONT... Manors San Bernardino Ave LLC

Chapter 7

On February 18, 2016, the senior lienholder on the Property, The Alpay Living Trust Dated 10/18/96 ("Creditor"), filed a motion for relief from the automatic stay, seeking to foreclose on the Property. This motion was opposed by both Petitioning Creditors and the Chapter 7 Trustee. On March 11, 2016, Trustee filed an application to employ real estate broker, and, on June 6, 2016, Trustee filed a complaint against Creditor to determining the validity, priority or extent of the Creditor's lien. On July 8, 2016, however, the Court granted Creditor relief from the automatic stay.

On May 18, 2017, Trustee filed a motion to approve compromise with Creditor. Pursuant to the terms of the compromise, Trustee received \$40,000 from Creditor, in return for Trustee's dismissal of the pending adversary proceeding and Trustee's renunciation of an interest in the property. [Dkt. No. 81, Ex. 1, Paragraphs 10.1-10.4].

On August 19, 2019, Trustee filed objections to Claim 7 and Claim 9, arguing that the claims were no longer secured. The Court has not received any timely opposition to the objections.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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CONT... **Manors San Bernardino Ave LLC**

Chapter 7

9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

The Court notes that the instant claim objections are cursory and do not contain any legal analysis or argument. The Court further notes that these claim objections do not appear to be properly brought as claim objections, but, instead, are appropriately deemed to be motions to value under 11 U.S.C. § 506(a)(1). Section 506(a)(1) states:

An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553

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CONT...

Manors San Bernardino Ave LLC

Chapter 7

of this title, *is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property*, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to setoff is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.

(emphasis added). Here, pursuant to the terms of the settlement reached with creditor, which was approved by the Court on June 15, 2017, Trustee effectively abandoned any interest in the Property. Therefore, the estate no longer having any interest in the Property, the claims of Musselman and Seifert cannot be secured by the Property.

Additionally, notice being proper, the Court deems the failure to Musselman and Seifert to oppose to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to SUSTAIN the objections, allowing Claim 7 as an unsecured claim in the amount of \$763,487.22, and allowing Claim 9 as a priority unsecured claim in the amount of \$12,475 and a generally unsecured claim in the amount of \$193,307.12

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

11:00 AM

CONT... Manors San Bernardino Ave LLC

Chapter 7

Debtor(s):

Manors San Bernardino Ave LLC

Represented By

Gaurav Datta - INACTIVE -

Movant(s):

John P Pringle (TR)

Represented By

Larry D Simons

Scott Talkov

Frank X Ruggier

Trustee(s):

John P Pringle (TR)

Represented By

Larry D Simons

Scott Talkov

Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

11:00 AM

6:17-15301 Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

#5.00 Chapter 7 Trustee's Motion for Order Approving Compromise of Controversy under Rule 9019

EH ____

Docket 24

Tentative Ruling:

9/18/19

BACKGROUND

On June 24, 2017, Jaspar & Brenda Stevens ("Debtors") filed a Chapter 7 voluntary petition. On October 10, 2017, Debtors received a discharge, and the case was closed the next day.

On July 24, 2019, UST filed a motion to reopen the case so that Trustee could investigate a proposed settlement of a lawsuit; the case was reopened the same day. On August 16, 2019, Trustee filed a motion to approve compromise. The compromise relates to the settlement of the state court litigation initially commenced by Debtors against Ocwen Loan Servicing, LLC. The material terms of the compromise are that Trustee shall execute a request for dismissal of the state court litigation in return for \$50,000.

On August 28, 2019, Debtors filed an opposition to the compromise motion. Debtors argue that the state court lawsuit was properly abandoned upon the conclusion of Debtors' bankruptcy case, and that, as a result, the claims are not property of the estate and cannot be compromised by Trustee. On September 10, 2019, Trustee filed a reply arguing that the state court litigation was not abandoned.

**United States Bankruptcy Court
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CONT... Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

The relevant material facts are not in dispute. Debtors concede that the litigation was not disclosed on their schedules. Trustee concedes that the litigation was disclosed on the statement of financial affairs. The parties dispute revolves around the interpretation of the word "scheduled" in 11 U.S.C. § 554(c).

DISCUSSION

11 U.S.C. § 554(c) states: "Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title." "Unless the court orders otherwise, property of the estate that is not abandoned under this section and that is not administered in the case remains property of the estate." 11 U.S.C. § 554(d). 11 U.S.C. § 521(a)(1) states

- (a) The debtor shall
 - (1) file
 - (A) a list of creditors; and
 - (B) unless the court orders otherwise –
 - (i) a schedule of assets and liabilities;
 - (ii) a schedule of current income and current expenditures
 - (iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate –
 - (I) of an attorney whose name is indicated

**United States Bankruptcy Court
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CONT...

Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

(II) if not attorney is no indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition

Debtors primarily rely upon *In re Hill*, 195 B.R. 147 (Bankr. D.N.M. 1996). Trustee implicitly concedes that *In re Hill* supports Debtors' position, but Trustee argues that "*In re Hill* relied on an erroneous statutory interpretation, went against policy and authority in relieving debtors of their obligations and consequences, and was

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CONT... Jasper Stevens and Brenda Louise Murray Stevens Chapter 7

essentially disposed of on other grounds that section 554(c), and should therefore not be followed by this Court." [Dkt. No. 30, pg. 7, lines 22-24]. *In re Hill* concluded that:

The language of § 521 itself supports a broader reading of "scheduled" in § 554(c), because the paragraph which follows paragraph § 521(1) makes a particular reference to "debtor's schedule of assets and liabilities." The use of this specific reference strongly suggests that the drafts of the Code will say "schedule of assets and liabilities" when that narrow requirement is intended, and that a reference to § 521(1) is a reference to § 521(1) as a whole.

Id. at 150; *see also U.S. ex rel. Fortenberry v. Holloway Group, Inc.*, 515 B.R. 827 (W.D. Okla. 2014) ("In other words the Court finds that the 'scheduled' requirement in § 554(c) refers to all of the disclosures required in § 521(a)(1), including the debtor's statement of financial affairs.").

On the other hand, Trustee points to multiple cases from the Bankruptcy Appellate Panel which held that "[m]entioning an asset in the statement of financial affairs is not the same as scheduling it for purposes of abandonment under § 554(c)." *In re Pretscher-Johnson*, 2017 WL 2779977 at *5 (B.A.P. 9th Cir. 2017); *In re Kayne*, 453 B.R. 372 (B.A.P. 9th Cir. 2011) (same); *see also In re Fossey*, 119 B.R. 268 (D. Utah 1990) ("The case have held that the word 'scheduled' in § 554(c) refers to property listed in the debtor's Schedule of Assets and Liabilities."). While Debtor has provided a recent Bankruptcy Appellate Panel case which seems to backtrack from the Panel's earlier position to a degree, as noted by Trustee, the reasoning in *In re Tadayon*, 2019 WL 1923044 (B.A.P. 9th Cir. 2019) is less than clear, bordering on bizarre.

Noting that the majority of the caselaw on this issue favors the position of the Trustee, the Court is inclined to conclude that the listing of the pending lawsuit in the statement of financial affairs is inadequate to trigger a technical abandonment of that asset pursuant to 11 U.S.C. § 554(c). While the Court acknowledges that the drafting of § 554(c) is somewhat ambiguous given that the statute could refer to § 521(a)(1)(B)(i), instead of § 521(a)(1) generally,

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CONT... Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

the use of the word "scheduled" must be interpreted in relation to the preparation of "schedules." Divorcing the verb "scheduled" from the noun "schedules" does not appear to be a reasonable approach to statutory interpretation, especially considering that in other sections, the Code includes the phrase "neither listed nor scheduled under section 521(a)(1)." 11 U.S.C. § 523(a)(3).

Turning to the compromise motion, FED. R. BANKR. P. Rule 9019 provides that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

The Ninth Circuit Court of Appeals have previously outlined the factors to be considered in approving a compromise pursuant to Rule 9019: (1) the probability of success in the litigation; (2) the difficulties to be encountered in the matter of collection; (3) the complexity, expense, inconvenience and delay of litigation; and (4) the interest of creditors with deference to their reasonable views. *See In re A&C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). The listed factors assist the Court in determining "the fairness, reasonableness and adequacy of a proposed settlement agreement." *Id.*

Here, the evidence before the Court is insufficient to assess the "fairness, reasonableness and adequacy" of the compromise. Specifically, the Court notes that the compromise motion does not include any meaningful detail regarding the nature of the state court litigation to be compromise, nor does the motion contain any description of the amount of damages sought in state court. Because of this absence of information, the Court is wholly unable to assess the reasonableness of the \$50,000 to be received by the bankruptcy estate.

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CONT... Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

TENTATIVE RULING

The Court is inclined to CONTINUE the matter for supplemental evidence as to the *A&C Properties* elements.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jasper Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Joint Debtor(s):

Brenda Louise Murray Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Movant(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, September 18, 2019

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11:00 AM

6:18-20316 Joel Eggleton and Heather Marie Eggleton

Chapter 7

#6.00 CONT Notice of Trustee's Final Report and Applications for Compensation

From: 8/21/19

EH__

Docket 26

Tentative Ruling:

9/18/2019

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,557.50

Trustee Expenses: \$ 126.03

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Joel Eggleton

Represented By
Sundee M Teeple

Joint Debtor(s):

Heather Marie Eggleton

Represented By
Sundee M Teeple

**United States Bankruptcy Court
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Riverside
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11:00 AM

CONT... Joel Eggleton and Heather Marie Eggleton

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:09-01235 DIAMOND v. Empire Partners, Inc., a California Corporation et

**#7.00 CONT Status Conference re complaint
HOLDING DATE**

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/13/19,
3/27/19, 5/8/19, 7/10/19

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang
Robert M Saunders
Michael I. Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

**United States Bankruptcy Court
Central District of California
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CONT... Empire Land, LLC

Chapter 7

David Loughnot
Jonathan A Loeb
Jeffrey Rosenfeld

DOES 1 through 100, inclusive

Pro Se

Plaintiff(s):

RICHARD K. DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder
John P. Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur
Alexander J Suarez

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#8.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14, 4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14, 01/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15, 12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16, 10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17, 11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/27/19, 3/27/19, 5/8/19, 7/10/19

EH____

Docket 1

***** VACATED *** REASON: ADVANCED TO 9/10/19 AT 3:30 P.M.**

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I. Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

CONT... Empire Land, LLC

Chapter 7

	Jonathan A Loeb Jeffrey Rosenfeld P Sabin Willett
James P Previti	Represented By Jonathan A Loeb Jeffrey Rosenfeld P Sabin Willett
Larry Day	Represented By Jonathan A Loeb Jeffrey Rosenfeld P Sabin Willett
Neil M Miller	Represented By Jonathan A Loeb Jeffrey Rosenfeld P Sabin Willett
Paul Roman	Represented By Jonathan A Loeb Jeffrey Rosenfeld P Sabin Willett
O'Melveny & Myers, LLP	Represented By Howard Steinberg P Sabin Willett
Peter T. Healy	Represented By Howard Steinberg P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, September 18, 2019

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CONT... Empire Land, LLC

Chapter 7

Cynthia M Cohen
Roye Zur
Alexander J Suarez

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01329 DIAMOND v. Empire Partners, Inc., a California Corporation et

#9.00 CONT Status Conference re complaint
(Defendant - Empire Partners, Inc) HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/13/27,
3/27/19, 5/8/19, 7/10/19

EH____

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang
Robert M Saunders
Michael I. Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

CONT... Empire Land, LLC

Chapter 7

James P Previti

Jonathan A Loeb
Jeffrey Rosenfeld

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Previti Realty Fund, L.P.

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

The James Previti Family Trust

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder
John P. Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur
Alexander J Suarez

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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2:00 PM

CONT...

Empire Land, LLC

Chapter 7

Paul Hastings

Roye Zur

Amy Evans

Best Best & Krieger

Franklin C Adams

Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

6:09-37495 Sultan Fakhoury

Chapter 7

Adv#: 6:19-01067 Fakhoury et al v. HAZMAT TSDF INC.

#10.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01067. Complaint by Sultan Fakhoury, Catherine M Fakhoury against Filter Recycling Services Inc, HAZMAT TSDF INC.. (Fee Not Required). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(91 (Declaratory judgment)),(72 (Injunctive relief - other)) (Marchetti, Albert)

From: 6/26/19, 7/31/19

EH__

Docket 1

***** VACATED *** REASON: CASE DISMISSED 8/29/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sultan Fakhoury

Represented By
Gary Swanson
Albert W Marchetti

Defendant(s):

HAZMAT TSDF INC.

Pro Se

Joint Debtor(s):

Catherine M Fakhoury

Represented By
Gary Swanson
Albert W Marchetti

Plaintiff(s):

Sultan Fakhoury

Represented By
Albert W Marchetti

Catherine M Fakhoury

Represented By

**United States Bankruptcy Court
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CONT...

Sultan Fakhoury

Albert W Marchetti

Chapter 7

Trustee(s):

Patricia J Zimmermann (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01222 Anderson, Chapter 7 Trustee v. Bobby Lee Associates, LLC

#11.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01222. Complaint by Karl T. Anderson, Chapter 7 Trustee against Bobby Lee Associates, LLC. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(14 (Recovery of money/property - other)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Polis, Thomas)

From: 1/16/19, 4/17/19, 6/12/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 10/2/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Bobby Lee Associates, LLC

Represented By
Keith S Knochel

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01227 Anderson, Chapter 7 Trustee v. Wang et al

#12.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01227. Complaint by Karl T. Anderson, Chapter 7 Trustee against Ming Chung Wang. (Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Polis, Thomas)

From: 1/16/19, 4/12/19, 6/12/19

Also #13

EH__

Docket 1

***** VACATED *** REASON: AMENDED COMPLAINT FILED 6/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Ming Chung Wang

Pro Se

LiLi Chang

Pro Se

JWLC Imports, Inc.

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

CONT... Eastern Legends CW

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01227 Anderson, Chapter 7 Trustee v. Wang et al

#13.00 Status Conference RE: [13] Amended Complaint Karl T. Anderson, Chapter 7 Trustee's First Amended Complaint; with Proof of Service by Thomas J Polis on behalf of Karl T. Anderson, Chapter 7 Trustee against LiLi Chang, JWLC Imports, Inc., Ming Chung Wang. (RE: related document(s)1 Adversary case 6:18-ap-01227. Complaint by Karl T. Anderson, Chapter 7 Trustee against Ming Chung Wang. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Polis, Thomas) Modified on 11/19/2018. filed by Plaintiff Karl T. Anderson, Chapter 7 Trustee). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D) (Polis, Thomas)

Also #12

EH ____

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Ming Chung Wang

Pro Se

LiLi Chang

Pro Se

JWLC Imports, Inc.

Pro Se

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

CONT... Eastern Legends CW

Chapter 7

Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01174 Pringle Ch 7 Trustee v. Shenouda et al

#14.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01174. Complaint by John P Pringle Ch 7 Trustee against Violete Shenouda, Anwar Wagdy. (Charge To Estate - \$350.00). Complaint: (1) To Avoid and Recover Fraudulent Transfers Pursuant to 11 U.S.C. Sections 548(a)(1)(A) and 550; (2) To Avoid and Recover Fraudulent Transfers Pursuant to 11 U.S.C. Sections 548(a)(1)(B) and 550; (3) To Avoid Transfer Pursuant to 11 U.S.C. Section 544(a)(3); (4) To Preserve Transfers Pursuant to 11 U.S.C. Section 551; (5) For Declaratory Relief; (6) For Imposition of Resulting Trust; (7) For Imposition of Constructive Trust; and (8) For Attorneys' Fees and Costs Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(72 (Injunctive relief - other)),(91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Goodrich, David)

From: 10/31/18, 2/27/19, 6/12/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Violete Shenouda

Represented By
John J Lewis

Anwar Wagdy

Represented By
John J Lewis

**United States Bankruptcy Court
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CONT... Mark Bastorous

Chapter 7

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

John P Pringle Ch 7 Trustee

Represented By
David M Goodrich
Reem J Bello

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
Central District of California
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Wednesday, September 18, 2019

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2:00 PM

6:18-12027 Richard M. Thomas

Chapter 7

Adv#: 6:18-01156 Anderson, Chapter 7 Trustee v. Williams et al

#15.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01156. Complaint by Karl T. Anderson, Chapter 7 Trustee against Amy Williams, Richard M Thomas Jr.. (Charge To Estate) (\$350.00). Complaint to: (1) Avoid and Recover Fraudulent Transfer; (2) Obtain Declaratory Relief as to Ownership of Real Property; and (3) Authorize Sale of Property Owned in Part by Non-Debtor Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))
(DEFAULT GRANTED AS TO SEVENTH CLAIM 4/19/19)

From: 9/26/18, 11/7/18, 12/12/18, 1/30/19, 2/27/19, 4/10/19

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

Defendant(s):

Amy Williams

Represented By
Anerio V Altman

Richard M Thomas Jr.

Pro Se

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By

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CONT... Richard M. Thomas

Chapter 7

Frank X Ruggier

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

**United States Bankruptcy Court
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6:18-17177 Julie Lynn Salazar

Chapter 7

#16.00 CONT Chapter 7 Trustee's Motion for Order: (1) Establishing Conditions and Procedures for Dismissal of Case Under 11 U.S.C. Section 707(a); and (2) Approving Payment of Creditor Claims and Administrative Fees
(Only as to Commission)

From: 6/5/19, 8/28/19

Also #17 - #19

EH__

Docket 67

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
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6:18-17177 Julie Lynn Salazar

Chapter 7

#17.00 CONT Application to Employ BHHS Perrie Mundy Realty Group as Real Estate Broker / Agent Declaration of Perrie Mundy in support
(HOLDING DATE)

From: 1/30/19, 4/10/19, 5/29/19, 6/5/19, 8/28/19

Also #16 - #19

EH__

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
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6:18-17177 Julie Lynn Salazar

Chapter 7

#18.00 CONT Motion for Objection to Claim of Exemptions by Debtor, Julie Lynn Salazar
(HOLDING DATE)

From: 1/16/19, 1/30/19, 4/10/19, 5/29/19, 6/5/19, 8/28/19

Also #16 - #19

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
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Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

6:18-17177 Julie Lynn Salazar

Chapter 7

#19.00 CONT Motion by Chapter 7 Trustee for Order Approving Equity Buy Back Agreement
(HOLDING DATE)

From: 12/5/18, 1/30/19, 4/10/19, 5/29/19, 6/5/19, 8/28/19

Also #16 - #18

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, September 18, 2019

Hearing Room 303

2:00 PM

6:18-17177 Julie Lynn Salazar

Chapter 7

Adv#: 6:18-01231 Winegardner Masonry, Inc. v. Salazar

#20.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01231. Complaint by Winegardner Masonry, Inc. against Julie Lynn Salazar. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(41 (Objection / revocation of discharge - 727(c),(d),(e)))

From: 1/30/19, 4/10/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Defendant(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Plaintiff(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
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2:00 PM

6:18-17431 James Michael Gorman

Chapter 7

Adv#: 6:19-01102 Trinidad Navarro, Insurance Commissioner of the S v. Gorman

#21.00 Plaintiff's Motion for Default Judgment Under LBR 7055-1

Also #22

EH__

Docket 7

Tentative Ruling:

9/18/19

BACKGROUND

On August 31, 2018, James Gorman ("Defendant") filed a Chapter 7 voluntary petition. The meeting of creditors was originally scheduled for October 3, 2018.

On May 22, 2019, Trinidad Navarro, Insurance Commission of the State of Delaware, in his capacity as the Receiver of Ullico Casualty Company ("Plaintiff") filed a motion to extend the deadline to file a non-dischargeability complaint. On June 13, 2019, the Court granted the motion, extending the deadline for Plaintiff to file a non-dischargeability adversary complaint until July 15, 2019.

On July 11, 2019, Plaintiff filed a non-dischargeability adversary complaint (the "Complaint") against Defendant pursuant to 11 U.S.C. § 523(a)(4) and § 523(a)(6). On August 14, 2019, the clerk entered default against Defendant after he failed to respond to the Complaint. On August 28, 2019, Plaintiff filed the instant motion for default judgment. The Court notes that notice and service appear proper.

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CONT... James Michael Gorman

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The instant complaint relates to Defendant's conduct while serving as the sole owner, sole director, President, Secretary, and Treasurer of James Gorman Insurance, Inc ("JGI"). JGI entered into a surety bond producer agreement (the "Agreement") with Ullico Casualty Company ("Ullico"). Pursuant to the agreement, JGI was to collect premiums for surety bonds issued by Ullico, deposit the premiums into a premium trust account, and remit the premiums, minus commissions, within forty-five days after the end of the month in which the premiums were due. In connection with the Agreement, Defendant executed a personal guarantee in favor of Ullico,

On January 13, 2012, Ullico gave JGI its 150 days' notice of intent to terminate the Agreement. Subsequently, JGI refused to remit premiums or provide an accounting or details regarding the premium trust account, leading Ullico to terminate the Agreement for cause on May 21, 2012. According to the complaint, JGI refused to remit premiums in the amount of \$870,190.79; Ullico also disputes commissions totaling \$468,564.27.

On March 11, 2013, the Court of Chancery of the State of Delaware entered its Rehabilitation and Injunction Order concerning Ullico, placing Ullico in rehabilitation and appointing a receiver. On May 30, 2013, the Chancery Court entered its Liquidation and Injunction Order with Bar Date, beginning the liquidation of Ullico. Neither JGI nor Defendant subsequently filed a proof of claim in the proceedings in the Delaware Chancery Court.

On January 26, 2016, in Delaware Chancery Court, Plaintiff filed a petition to compel JGI to turnover certain premiums and to provide an accounting. After JGI failed to respond to the petition, more than two years later, on April 25, 2018, Plaintiff filed a motion for entry of default judgment in Delaware Chancery Court. The Delaware Chancery Court subsequently entered default judgment against JGI in the amount of \$2,804,692.15

DISCUSSION

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Chapter 7

A. Entry of Default

FED. R. CIV. P. Rule 55 states that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed. R. Civ. P. 55(a). Local Rule 7055-1 provides further requirements relating to a motion for entry of default judgment, and those requirements have been substantially satisfied here.

B. Motion for Default Judgment

1. Proper Service of Summons and Complaint

FED. R. BANKR. P. Rule 7004(b)(1) states, in part:

[S]ervice may be made within the United States by first class mail postage prepaid as follows:

- (1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint to the individual's dwelling house or usual place of abode or to the place where the individual regularly conducts a business or profession.

Here, it appears that the motion for default judgment has been properly served.

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CONT... James Michael Gorman

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2. Merits of Plaintiff's claim

Upon default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true. *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987); *see also Almog v. Golden Summit Investors Group, Ltd.*, 2012 WL 12867972 at *4 (C.D. Cal. 2012) ("When reviewing a motion for default judgment, the Court must accept the well-pleaded allegations of the complaint relating to liability as true.").

Here, the complaint includes four causes of action, three relating to 11 U.S.C. § 523(a)(4) and one relating to 11 U.S.C. § 523(a)(6).

Regarding 11 U.S.C. § 523(a)(4), "[d]efalcation refers to a failure to produce funds entrusted to a fiduciary." *In re Bullock*, 670 F.3d 1160, 1164 (11th Cir. 2012). The Supreme Court has held that defalcation "requires knowledge of, or gross recklessness in respect to, the improper nature of the fiduciary behavior." GINSBERG & MARTIN ON BANKRUPTCY § 11.06 (5th ed. 2019). Second, the elements of an embezzlement claim are: "(1) property rightfully in the possession of a nonowner; (2) nonowner's appropriation of the property to a use other than which it was entrusted; and (3) circumstances indicating fraud." *In re Littleton*, 942 F.2d 551, 555 (9th Cir. 1991). And third "[e]mbezzlement differs from larceny only in that the original taking was lawful." *In re Dobek*, 278 B.R. 496, 509 (Bankr. N.D. Ill. 2012).

Regarding Plaintiff's claim for defalcation, it is not clear that Defendant, as opposed to JGI, was in a fiduciary relationship with Ullico. In 2015, the Ninth Circuit rejected an argument that the sole owners of a corporation--that was acknowledged to be acting in a fiduciary relationship to a second corporation -- could be themselves considered to be acting in a fiduciary capacity for the second corporation. *Double Bogey, L.P. v. Enea*, 794 F.3d 1047 (9th Cir. 2015). Therefore, it would appear that Plaintiff has not established the applicability of the non-dischargeability exception for

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defalcation in a fiduciary capacity.

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Regarding larceny, it does not appear that Plaintiff has provided any evidence to support a conclusion that JGI or Defendant engaged in a wrongful taking of Ullico's property. More specifically, it would appear that JGI was intended to receive the premiums pursuant to the terms of the Agreement.

Regarding embezzlement, however, the Court concludes that Plaintiff has adequately plead its case. Specifically, the Court notes that Plaintiff has alleged that the premiums at issue were: (1) rightfully in the possession of Debtor through his control of JGI; and (2) were appropriated for the personal use of Debtor. Additionally, the Court can reasonably infer an intent to defraud Ullico and Plaintiff from the circumstances described by Plaintiff, given the non-responsiveness of Debtor and JGI to Plaintiff's attempts over multiple years to get an accounting of the premiums.

Regarding 11 U.S.C. § 523(a)(6), the Ninth Circuit has stated the following:

Section 523(a)(6) of the Bankruptcy Code provides that an individual debtor may not discharge a debt for willful *and* malicious injury by the debtor to another entity or to the property of another entity. The malicious injury requirement is separate from the willful injury requirement. A "willful" injury is a deliberate or intentional *injury*, not merely a deliberate or intentional *act* that leads to injury. A "malicious" injury involves (1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse."

In re Barboza, 545 F.3d 702, 706 (9th Cir. 2008).

Here, the Court concludes that Plaintiff has adequately plead the requirements of a § 523(a)(6) claim. Specifically, the Court notes that Plaintiff has plead a wrongful act, embezzlement, which was done intentionally, which would necessarily cause Ullico injury and for which Defendant has not offered any just cause or excuse. Additionally, the Court notes that Plaintiff has adequately alleged that Defendant intended to cause an injury to Ullico, or were substantially certain that he would cause an injury, through embezzlement of the premiums held in trust.

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3. Amount of Damages

Here, Plaintiff's claim was liquidated prepetition and Plaintiff has provided adequate evidence regarding the amount of the claim.

TENTATIVE RULING

The Court is inclined to GRANT the motion with respect to the claims for embezzlement under § 523(a)(4) and willful and malicious injury under § 523(a)(6) and DENY the motion with respect to the claims for larceny and defalcation in a fiduciary capacity.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

James Michael Gorman Pro Se

Defendant(s):

James Michael Gorman Pro Se

Movant(s):

Trinidad Navarro, Insurance Represented By
Todd M Arnold

Plaintiff(s):

Trinidad Navarro, Insurance Represented By
Todd M Arnold

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Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
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6:18-17431 James Michael Gorman

Chapter 7

Adv#: 6:19-01102 Trinidad Navarro, Insurance Commissioner of the S v. Gorman

#22.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01102. Complaint by Trinidad Navarro, Insurance Commissioner of the State of Delaware, in his capacity as the Receiver of Ullico Casualty Company against James Michael Gorman. fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Arnold, Todd)

From: 9/11/19

Also #21

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Michael Gorman Pro Se

Defendant(s):

James Michael Gorman Pro Se

Plaintiff(s):

Trinidad Navarro, Insurance Represented By
Todd M Arnold

Trustee(s):

Arturo Cisneros (TR) Pro Se

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6:19-13174 Daniel Benjamin Verwers

Chapter 7

Adv#: 6:19-01107 Blumhardt v. Verwers

#23.00 Motion to Dismiss Adversary Proceeding

Also #24

EH__

Docket 4

Tentative Ruling:

9/18/19

BACKGROUND

On April 15, 2019, Daniel Verwers ("Defendant") filed a Chapter 7 voluntary petition. On July 19, 2019, Daniel Blumhardt ("Plaintiff") filed a non-dischargeability adversary complaint against Defendant pursuant to 11 U.S.C. § 523(a)(2). The Court notes that § 523(a)(2) is not itself a cause of action; the complaint, however, makes clear that it is relying upon § 523(a)(2)(A).

On August 21, 2019, Defendant filed a motion to dismiss the complaint pursuant to FED. R. CIV. P. Rule 12(b)(6), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7012. On September 4, 2019, Plaintiff filed his opposition.

DISCUSSION

I. STANDARD FOR MOTION TO DISMISS

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CONT... Daniel Benjamin Verwers

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FED. R. CIV. P. Rule 12(b)(6), made applicable in adversary proceedings through FED. R. BANKR. P. Rule 7012, a bankruptcy court may dismiss a complaint if it fails to "state a claim upon which relief can be granted." In reviewing a FED. R. CIV. P. Rule 12(b)(6) motion, the trial court must accept as true all facts alleged in the complaint and draw all reasonable inferences in favor of the plaintiff. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). The trial court need not, however, accept as true conclusory allegations in a complaint or legal characterizations cast in the form of factual allegations. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–56, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007); *Hartman v. Gilead Scis., Inc. (In re Gilead Scis. Sec. Litig.)*, 536 F.3d 1049, 1055 (9th Cir. 2008).

To avoid dismissal under FED. R. CIV. P. Rule 12(b)(6), a plaintiff must aver in the complaint "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, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting *Twombly*, 550 U.S. at 570, 127 S.Ct. 1955). It is axiomatic that a claim cannot be plausible when it has no legal basis. A dismissal under FED. R. CIV. P. Rule 12(b)(6) may be based either on the lack of a cognizable legal theory or on the absence of sufficient facts alleged under a cognizable legal theory. *Johnson v. Riverside Healthcare Sys.*, 534 F.3d 1116, 1121 (9th Cir.2008).

FED. R. CIV. P. Rule 9(b), incorporated into bankruptcy proceeding by FED. R. BANKR. P. Rule 7009, "requires a pleader of fraud to detail with particularity the time, place, and manner of each act of fraud, plus the role of each defendant in each scheme." *Lancaster Cmty. Hosp. v. Antelope Valley Hosp. Dist.*, 940 F.2d 397, 405 (9th Cir. 1991). A cause of action for fraud must be "specific enough to give defendants notice of the particular misconduct which is alleged to constitute the fraud charged so that they can defend against the charge and not just deny that they have done anything wrong." *Neubronner v. Milken*, 6 F.3d 666, 672 (9th Cir. 1993). "Intent is usually proven by circumstantial evidence or by inferences drawn from the debtor's conduct." *In re Retz*, 606 F.3d 1189, 1199 (9th Cir. 2010).

II. 11 U.S.C. § 523(A)(2)(A)

As a preliminary matter, Defendant asserts that: "Plaintiff has failed to specify under which section of 523(a)(2) he has chosen to bring his claim. Since the Complaint does not state a specific cause of action, it does not state a claim for which relief can be granted." [Dkt. No. 4, pg. 4]. While Defendant is correct that the complaint has not properly identified the relevant subsection of § 523(a)(2), the Court notes that the complaint references § 523(a)(2)(A) in the body of the complaint, and contains no reference to § 523(a)(2)(B). Therefore, the Court will construe the complaint as

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CONT... Daniel Benjamin Verwers

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include a single claim that is brought under § 523(a)(2)(A).

11 U.S.C. § 523(a)(2)(A) provides:

- (a) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt –
 - (2) for money, property, services, or an extension, renewal, or refinancing of creditor, to the extent obtained by –
 - (A) false pretenses, a false representation, or actual fraud, other than a statement relating to the debtor's or an insider's financial condition

The elements of a claim under 11 U.S.C. § 523(a)(2)(A) are:

- (1) the debtor made . . . representations;
- (2) that at the time he knew they were false;
- (3) that he made them with the intention and purpose of deceiving the creditor;
- (4) that the creditor relied on such representations; [and]
- (5) that the creditor sustained the alleged loss and damage as the proximate result of the misrepresentations having been made.

In re Sabban, 600 F.3d 1219, 1222 (9th Cir. 2010).

Here, paragraph 18 of the complaint provides adequate detail sufficient to meet the Rule 9 heightened pleading requirement for two specific representations which were made on August 20, 2018, and January 29, 2019. Nevertheless, there are multiple fatal problems with the representations outlined in the complaint. First, the "representations" quoted by Plaintiff do not actually contain representations regarding the progress of the car. The first representation simply states that Defendant has not reached the final body prep stages. The second representations simply states that Defendant will send an update today. It is unclear what material in these excerpts Plaintiff contends is false. Second, both of these representations were made *after* Plaintiff made his final payment to Defendant. Therefore, it is not temporally possible that these representations could have proximately caused the damages alleged in the complaint.

Therefore, pursuant to the above, the complaint fails to adequately allege, at a

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CONT... **Daniel Benjamin Verwers**

Chapter 7

minimum, the second and fifth elements of a § 523(a)(2)(A) pursuant to *Sabban*. The remainder of the portions of the complaint referenced in Plaintiff's opposition that contain alleged representations made by Defendant to Plaintiff (i.e. ¶¶ 12, 16, and 27) are materially deficient with respect to the details required to plead fraud with particularity pursuant to *Lancaster Cmty. Hosp. v. Antelope Valley Hosp. Dist.*, 940 F.2d 397, 405 (9th Cir. 1991).

TENTATIVE RULING

The Court is inclined to GRANT the motion, DISMISSING the complaint without prejudice.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Daniel Benjamin Verwers

Represented By
Todd L Turoci

Defendant(s):

Daniel Benjamin Verwers

Represented By
Todd L Turoci

Movant(s):

Daniel Benjamin Verwers

Represented By
Todd L Turoci

Plaintiff(s):

Daniel John Blumhardt

Represented By
Louis J Sarmiento
Denis S Kenny

**United States Bankruptcy Court
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CONT... Daniel Benjamin Verwers

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:19-13174 Daniel Benjamin Verwers

Chapter 7

Adv#: 6:19-01107 Blumhardt v. Verwers

#24.00 Status Conference RE: [1] Adversary case 6:19-ap-01107. Complaint by Daniel John Blumhardt against Daniel Benjamin Verwers. false pretenses, false representation, actual fraud)) (Sarmiento, Louis)

Also #23

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Benjamin Verwers

Represented By
Todd L Turoci

Defendant(s):

Daniel Benjamin Verwers

Represented By
Todd L Turoci

Plaintiff(s):

Daniel John Blumhardt

Represented By
Louis J Sarmiento
Denis S Kenny

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, September 19, 2019

Hearing Room 303

11:01 AM

6:18-18614 Frank Thomas Scott

Chapter 13

#70.00 Trustee's Motion to Dismiss Case

EH__

Docket 49

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Thomas Scott

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, September 23, 2019

Hearing Room 303

9:30 AM

6:17-13012 Issa M Musharbash

Chapter 7

Adv#: 6:17-01138 Musharbash et al v. Musharbash et al

#1.00 Trial RE: [1] Adversary case 6:17-ap-01138. Complaint by Phillip Musharbash ,
Violette Musharbash against Issa M Musharbbash , Amal Musharbbash

EH__

Docket 1

Party Information

Debtor(s):

Issa M Musharbash

Represented By
Brian J Soo-Hoo

Defendant(s):

Issa M Musharbash

Pro Se

Amal Musharbash

Pro Se

Joint Debtor(s):

Amal Issa Musharbash

Represented By
Brian J Soo-Hoo

Plaintiff(s):

Phillip Musharbash

Pro Se

Violette Musharbash

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, September 24, 2019

Hearing Room 303

9:30 AM

6:17-13012 Issa M Musharbash

Chapter 7

Adv#: 6:17-01138 Musharbash et al v. Musharbash et al

#1.00 CONT Trial RE: [1] Adversary case 6:17-ap-01138. Complaint by Phillip Musharbash , Violette Musharbash against Issa M Musharbbash , Amal Musharbbash

From: 9/23/19

EH__

Docket 1

Party Information

Debtor(s):

Issa M Musharbash

Represented By
Brian J Soo-Hoo

Defendant(s):

Issa M Musharbash

Pro Se

Amal Musharbash

Pro Se

Joint Debtor(s):

Amal Issa Musharbash

Represented By
Brian J Soo-Hoo

Plaintiff(s):

Phillip Musharbash

Pro Se

Violette Musharbash

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, September 25, 2019

Hearing Room 303

9:30 AM

6:17-13012 Issa M Musharbash

Chapter 7

Adv#: 6:17-01138 Musharbash et al v. Musharbash et al

#1.00 CONT Trial RE: [1] Adversary case 6:17-ap-01138. Complaint by Phillip Musharbash , Violette Musharbash against Issa M Musharbbash , Amal Musharbbash

From: 9/23/19, 9/24/19

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 9/24/19**

Party Information

Debtor(s):

Issa M Musharbash

Represented By
Brian J Soo-Hoo

Defendant(s):

Issa M Musharbash

Pro Se

Amal Musharbash

Pro Se

Joint Debtor(s):

Amal Issa Musharbash

Represented By
Brian J Soo-Hoo

Plaintiff(s):

Phillip Musharbash

Pro Se

Violette Musharbash

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:15-18212 Michael Joseph Slowinski

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15470 Legendary Drive, Moreno Valley, CA 92555

MOVANT: WELLS FARGO BANK, NATIONAL ASSOCIATION

From: 8/27/19

EH__

Docket 83

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michael Joseph Slowinski Pro Se

Movant(s):

Wells Fargo Bank, National Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:17-15647 Omar Enrique Lopez

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23502 Wooden Horse Trail, Murrieta, CA 92562-4721

MOVANT: EAGLE HOME MORTGAGE LLC

From: 8/20/19

EH ____

Docket 53

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of adequate protection negotiations.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Omar Enrique Lopez

Represented By
Dana Travis

Movant(s):

Eagle Home Mortgage, LLC

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Omar Enrique Lopez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:17-20240 Natona Smith and Tameiko Smith

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15573 Kearny Drive, Adelanto, CA 92301

MOVANT: FMJM RWL IV TRUST 2017-1

From: 8/20/19

EH__

Docket 42

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the loan modification. Otherwise, it appears that relief from the stay is warranted.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Natona Smith

Represented By
Natalie A Alvarado

Joint Debtor(s):

Tameiko Smith

Represented By
Natalie A Alvarado

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Natona Smith and Tameiko Smith

Chapter 13

Movant(s):

FMJM RWL IV Trust 2017-1

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:18-10454 Scott Lawrence and Anita D Lawrence

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 24017 Orleans Lane, Murrieta, CA 92562

MOVANT: PENNYMAC LOAN SERVICES, LLC

EH ____

Docket 48

Tentative Ruling:

10/1/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Scott Lawrence

Represented By
Kevin Tang

Joint Debtor(s):

Anita D Lawrence

Represented By
Kevin Tang

Movant(s):

PennyMac Loan Services, LLC, and

Represented By
Christina J O

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Scott Lawrence and Anita D Lawrence

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:18-10909 Candyce Flemister

Chapter 13

#5.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15756 Granada Drive, Moreno Valley, CA 92551

MOVANT: NATIONSTAR MORTGAGE LLC

From: 8/20/19

EH ____

Docket 38

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from the automatic stay pursuant to § 362(d) (1). GRANT request under ¶ 2 to enforce remedies to repossess and sell the property. GRANT request under ¶ 3 to enter into an agreement with the Debtor. GRANT relief from Rule 4001 stay. GRANT request that, upon entry of the order, that Debtor be considered a borrower, as defined under Cal. Civ. Code § 2920.5(c)(2)(C), for the purposes of Cal. Civ. Code § 2923.5. DENY request for adequate protection in the alternative as MOOT.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Candyce Flemister

Chapter 13

Party Information

Debtor(s):

Candyce Flemister

Represented By
Christopher Hewitt

Movant(s):

Nationstar Mortgage LLC, d/b/a Mr.

Represented By
Gilbert R Yabes
Dane W Exnowski
Kelsey X Luu

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:18-11924 Don Gurule and Elaine Gurule

Chapter 13

#6.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13343 Chaparral Road, Whitewater, CA 92282

MOVANT: NATIONSTAR MORTGAGE LLC

From: 6/25/19, 8/27/19

EH ____

Docket 54

*** VACATED *** REASON: ORDER ENTERED 9/26/19

Tentative Ruling:

Tentative Ruling:

6/25/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of the arrears, as well as negotiations as to an adequate protection order, if needed.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Don Gurule

Represented By
Christopher Hewitt

Joint Debtor(s):

Elaine Gurule

Represented By
Christopher Hewitt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Don Gurule and Elaine Gurule

Chapter 13

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Angie M Marth
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:18-12822 Cynthia Miller

Chapter 13

#7.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15036 Daffodil Circle, Fontana, CA 92336

MOVANT: WILMINGTON TRUST, NATIONAL ASSOCIATION

From: 7/16/19, 8/27/19

EH ____

Docket 62

Tentative Ruling:

Tentative Ruling:

7/16/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of negotiations as to an adequate protection order.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Cynthia Miller

Represented By
Richard L Barrett

Movant(s):

Wilmington Trust, National

Represented By
Dipika Parmar
Jennifer C Wong

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Cynthia Miller

Nancy L Lee

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:18-16064 Michael D. Wickham and JoAnn Y. Wickham

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 26200 Circle Drive, Lake Arrowhead, CA 92352

MOVANT: LAKEVIEW LOAN SERVICING, LLC

EH ____

Docket 70

***** VACATED *** REASON: ORDER ENTERED 9/17/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael D. Wickham

Represented By
M. Wayne Tucker

Joint Debtor(s):

JoAnn Y. Wickham

Represented By
M. Wayne Tucker

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:18-18504 Elmer Arnold Tompkins

Chapter 13

#9.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 804 Tribune Street, Redlands, CA 92374

MOVANT: NEWREZ LLC

From: 9/10/19

EH__

Docket 32

*** VACATED *** REASON: ORDER ENTERED 9/30/19

Tentative Ruling:

9/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from § 1301(a) co-debtor stay. GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶ 13.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Elmer Arnold Tompkins

Represented By
Scott Kosner

Movant(s):

NewRez LLC dba Shellpoint

Represented By
Mark S Krause

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Elmer Arnold Tompkins

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#10.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23631 Rhea Drive, Moreno Valley, CA 92557

MOVANT: NATIONSTAR MORTGAGE LLC DBA MR. COOPER AS
SERVICING AGENT FOR DEUTSCHE BANK NATIONAL TRUST COMPANY

From: 8/20/19

EH__

Docket 42

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Movant(s):

Deutsche Bank National Trust

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Tanyua Alicia Gates-Holmes

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:18-20759 Elida Soto

Chapter 13

#11.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13692 Bedford Place, Victorville, CA 92392

MOVANT: NATIONS DIRECT MORTGAGE, LLC

From: 7/30/19, 8/27/19

EH ____

Docket 40

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Elida Soto

Represented By
William G Cort

Movant(s):

NATIONS DIRECT MORTGAGE,

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:19-10556 Timothy Mark Aitken and Esmeralda Aitken

Chapter 7

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2402 South Maple Street, Santa Ana, CA 92707

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

EH __

Docket 33

Tentative Ruling:

10/1/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(4) based on multiple bankruptcies affecting the property and multiple unauthorized transfers of an interest in the property. GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2, and request under ¶ 10 upon recording of a copy of this order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law.

The BAP, in *In re Fjeldsted*, noted the absence of a clear standard for annulment of the automatic stay. 293 B.R. 12, 21 (B.A.P. 9th Cir. 2003) ("There is less appellate clarity, however, in enunciating a test for retroactive stay relief. Inconsistent standards have thus developed, which run the gamut from such relief being justified only in 'extreme circumstances' to giving the court 'wide latitude' to 'balance the equities' on a case-by-case basis."). The BAP's most recent announcement of the standard for annulment of the automatic stay stated the following:

Determining whether cause exists to annul the stay is a case-by-case inquiry

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT...

Timothy Mark Aitken and Esmeralda Aitken

Chapter 7

based on a balance of the equities. In conducting this inquiry the bankruptcy court, among other factors, should consider whether the creditor knew of the bankruptcy when violating the stay and whether the debtor's conduct was unreasonable, inequitable or prejudicial to the creditor.

In *Fjeldsted*, we approved additional factors for consideration in assessing the equities. The twelve nonexclusive factors are: (1) number of filings; (2) whether, in a repeat filing case, the circumstances indicate an intention to delay and hinder creditors; (3) a weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser; (4) the debtor's overall good faith (totality of circumstances test); (5) whether creditors knew of stay but nonetheless took action, thus compounding the problem; (6) whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules; (7) the relative ease of restoring parties to the status quo ante; (8) the costs of annulment to debtors and creditors; (9) how quickly creditors moved for annulment, or how quickly debtor moved to set aside the sale or violative conduct; (10) whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief; (11) whether annulment of the stay will cause irreparable injury to the debtor; and (12) whether stay relief will promote judicial economy or other efficiencies. The Panel in *Fjeldsted* cautioned that the twelve factors are merely a framework for analysis and not a scorecard, and that in any given case, one factor may so outweigh the others as to be dispositive.

In re Estavan Capital LLC, 2015 WL 7758494 at *5 (B.A.P. 9th Cir. 2015) (citations and quotations omitted).

Fjeldsted cautioned that the enumerated factors are not a scorecard and the *Fjeldsted* standard clearly weigh in favor of annulling the stay here. Specifically, as is noted by Creditor, Debtors did not list the subject real property in their schedules, nor does it

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Timothy Mark Aitken and Esmeralda Aitken Chapter 7

appear that Creditor ever received any notice of the bankruptcy filing. Furthermore, the Court notes that there were multiple other bankruptcy filings affecting the subject real property, as well as multiple unauthorized transfers of property, which appear to be part of a scheme to delay or defraud Movant. As a result, it is appropriate to annul the automatic stay to validate the foreclosure sale of the property, a sale which Debtors do not appear to have been aware of, or in any way involved in.

Additionally, the Court notes that Movant has served the instant motion on the original borrower, who has not filed any opposition, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Timothy Mark Aitken	Pro Se
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Joint Debtor(s):

Esmeralda Aitken	Pro Se
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Movant(s):

Deutsche Bank National Trust	Represented By Robert P Zahradka
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Trustee(s):

Howard B Grobstein (TR)	Represented By Larry D Simons
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:19-11090 Angela Clarice Atou

Chapter 13

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11911 Bluff Court, Adelanto, CA 92301

MOVANT: LAKEVIEW LOAN SERVICING LLC

EH__

Docket 53

***** VACATED *** REASON: ORDER ENTERED 9/20/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angela Clarice Atou

Represented By
Todd L Turoci

Movant(s):

Lakeview Loan Servicing, LLC, and

Represented By
Christina J O

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:19-13292 Miguel Angel Arredondo

Chapter 7

#14.00

CONT Amended Motion (related document(s): 8 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Shirleen P. Damaske vs. Miguel Angel Arredondo, Superior Court of the State of California for the County of San Bernardino, Case Number CIVDS 1906769

MOVANT: SHIRLEEN P. DAMASKE

From: 8/20/19

EH__

Docket 9

Tentative Ruling:

TENTATIVE RULING:

8/20/2019

Service: Improper

Opposition: None

The Court is inclined to CONTINUE the matter for Movant to properly serve Debtor and the Chapter 7 Trustee.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Miguel Angel Arredondo

Represented By
Daniel King

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Miguel Angel Arredondo

Chapter 7

Movant(s):

Shirleen P Damaske

Represented By
Michael P O'Sullivan

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:19-15974 Robert Kevin Vasquez

Chapter 7

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Toyota Corolla Sedan VIN: 2T1BURHE9HC860983

MOVANT: CONSUMER PORTFOLIO SERVICES

EH ____

Docket 8

Tentative Ruling:

10/1/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief pursuant to 11 U.S.C. § 362(d)(2) for lack of cause shown. Specifically, the Court notes that the motion does not check the required box for relief under § 362(d)(2). GRANT relief from Rule 4001(a)(3) stay.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Robert Kevin Vasquez

Represented By
Fred Edwards

Movant(s):

Consumer Portfolio Services

Represented By
Kristin A Zilberstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... Robert Kevin Vasquez

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:19-16205 James William Paterson, Jr.

Chapter 7

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 FORD F150 VIN 1FTEX1CG4JKF59864

MOVANT: FORD MOTOR CREDIT COMPANY LLC

CASE DISMISSED 8/14/19

EH__

Docket 26

Tentative Ruling:

10/1/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

James William Paterson Jr.

Represented By
Mykhal N Ofili

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

CONT... James William Paterson, Jr.

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 1, 2019

Hearing Room 303

11:00 AM

6:19-16393 Dwane A. Chung

Chapter 7

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2006 Chevrolet Silverado, VIN# 2GCEC19Z46139866

MOVANT: KINECTA FEDERAL CREDIT UNION

EH: ____

Docket 12

Tentative Ruling:

10/1/2019

Service is Proper
Opposition: None

11 U.S.C. § 362(h)(1)(A) provides:

(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) –

(A) to file time any statement of intention required under section 521(a)(2) with respect to such personal property *or to indicate in such statement that the debtor will either* surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to

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CONT...

Dwane A. Chung

Chapter 7

section 365(p) if the trustee does not do so, as applicable;

(emphasis added). Here, Debtor failed to address the subject collateral in his statement of intention. Therefore, the automatic stay has terminated as a matter of law. The Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Dwane A. Chung

Represented By
David A Wiesen

Movant(s):

Kinecta Federal Credit Union

Represented By
Mark S Blackman

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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6:19-16837 Joshua John Moore and Siatuolo Moore

Chapter 7

#18.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 744 Suncup Cir, Hemet, California 92543

MOVANT: PENNYMAC LOAN SERVICES LLC

EH ____

Docket 11

Tentative Ruling:

10/1/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1).
GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Joshua John Moore

Represented By
John D Sarai

Joint Debtor(s):

Siatuolo Moore

Represented By
John D Sarai

Movant(s):

PennyMac Loan Services, LLC

Represented By
Robert P Zahradka

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CONT... Joshua John Moore and Siatuolo Moore

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

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6:19-17062 Beatrice Atilano

Chapter 7

#19.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 HONDA ACCORD, VIN: 1HGC R2F8 XEA2 19742

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

Docket 8

*** VACATED *** REASON: ORDER ENTERED 9/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Beatrice Atilano

Represented By
Michael E Clark

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

Trustee(s):

Charles W Daff (TR)

Pro Se

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6:19-17113 Tami Sue McLaughlin

Chapter 7

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 RAM RAM 1500 VIN 1C6RR7MT3GS399552

MOVANT: TD AUTO FINANCE LLC

EH__

Docket 11

Tentative Ruling:

10/1/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Tami Sue McLaughlin

Represented By
Nicholas Nicholas Wajda

Movant(s):

TD Auto Finance LLC

Represented By
Jennifer H Wang

Trustee(s):

Robert Whitmore (TR)

Pro Se

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6:19-17846 Christopher Lee Sumners

Chapter 13

#21.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Personal Property that includes a 2011 Toyota Tacoma

MOVANT: CHRISTOPHER LEE SUMNERS

EH__

Docket 14

Tentative Ruling:

10/1/2019

Service: Proper
Opposition: None

Debtor had a prior case dismissed in the previous calendar year for failure to perform the terms of a plan confirmed by the court. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(C)(i)(II)(cc), the instant bankruptcy case is presumed to have been filed in bad faith. Pursuant to 11 U.S.C. § 362(c)(3)(C), the Court requires "clear and convincing" evidence to rebut the presumption of bad faith. Here, Debtor has provided no evidence regarding his new financial situation, only saying that his income from a new business is consistent. Because this evidence fails to meet the heightened standard imposed by § 362(c)(3)(C), the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Christopher Lee Sumners

Represented By
Paul Y Lee

Movant(s):

Christopher Lee Sumners

Represented By
Paul Y Lee

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CONT... Christopher Lee Sumners

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-18004 Marcus Lee Henderson

Chapter 13

#22.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1428 North San Diego Place, Ontario, California 91764

MOVANT: EAI CAPITAL LLC

EH__

Docket 6

Tentative Ruling:

10/1/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(4) based on multiple unauthorized quitclaim deeds filed less than two weeks prepetition, and based on the fact that the original borrowers had seven unsuccessful bankruptcy filings since 2011, indicating a scheme to delay or defraud creditors. GRANT relief from Rule 4001(a)(3) stay. GRANT relief from § 1301(a) co-debtor stay. GRANT request under ¶ 2.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Marcus Lee Henderson

Pro Se

Movant(s):

EAI CAPITAL LLC

Represented By
Julian K Bach

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CONT... Marcus Lee Henderson

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-18038 Koppi V. Beskid

Chapter 13

#23.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 2010 Hyundai Accent

MOVANT: KOPPI V. BESKID

EH__

Docket 11

Tentative Ruling:

10/1/2019

Service is Improper

Opposition: None

Pursuant to the self-calendaring procedures of Judge Houle, debtors who wish to have a motion to continue or impose the automatic stay heard on shortening notice are required to serve secured creditors pursuant to FED. R. BANKR. P. Rule 7004. Here, Debtor has not complied with this service requirement. Additionally, the Court notes that pages one and three of the motion, each of which prompt Debtor to identify the affected secured creditor(s), do not identify any secured creditors. Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Koppi V. Beskid

Represented By
Gregory Ashcraft

Movant(s):

Koppi V. Beskid

Represented By
Gregory Ashcraft

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CONT... Koppi V. Beskid

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-18105 Jason Benjamin Marlow and Linda Sue Marlow

Chapter 13

#24.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 8939 Dahlia Dr. Corona CA 92883

MOVANT: JASON BENJAMIN MARLOW AND LINDA SUE MARLOW

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jason Benjamin Marlow

Represented By
Julie J Villalobos

Joint Debtor(s):

Linda Sue Marlow

Represented By
Julie J Villalobos

Movant(s):

Jason Benjamin Marlow

Represented By
Julie J Villalobos

Linda Sue Marlow

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-17843 Zakiyyah Johnson-Salaam

Chapter 7

#24.10 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 37625 Early Ln., Murrieta, CA 92563

MOVANT: AARON D. WEINFELD AND SHELITA C. WEINFELD

EH__

Docket 16

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zakiyyah Johnson-Salaam	Pro Se
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Movant(s):

Aaron D. Weinfield and Shelita C.	Represented By Scott Andrews
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Trustee(s):

Robert Whitmore (TR)	Pro Se
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11:00 AM

6:19-16941 Latacia D Sanders

Chapter 13

#24.20 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 27757 Aspel Rd. #1117, Menifee, CA 92585

MOVANT: ANTELOPE RIDGE APARTMENTS, LLC

EH__

Docket 31

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Latacia D Sanders

Pro Se

Movant(s):

ANTELOPE RIDGE

Represented By
Scott Andrews

Trustee(s):

Rod Danielson (TR)

Pro Se

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2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#25.00 (Jointly Administered - LEAD CASE - 19-13127 MH)
Motion to Approve Cash Management System

EH__

Docket 162

Tentative Ruling:

10/1/19

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware, Inc. ("Debtor") filed a Chapter 11 voluntary petition. On May 2, 2019, the Court authorized use of cash collateral on an interim basis. On June 19, 2019, the Court extended authorization to use cash collateral. This authorization was extended a second time on September 12, 2019.

After denying a motion for substantive consolidation, the Court ordered, on July 12, 2019, that Debtor's case be jointly administered with the cases of 9 Fingers, Inc. (19-13130), P&P Hardware, Inc. (19-13131), Riverside Ace Hardware, Inc. (19-13132), and Wildomar Ace Hardware, Inc. (19-13133) (collectively, "Debtors"). The Court has authorized the employment of Brass Tax Ryder Professional Group, Inc. as accountants for Debtors, and Rosenstein & Associates as counsel for Debtors.

On September 10, 2019, Debtors filed a motion to approve cash management system. The Court has not received any opposition to the motion.

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CONT... Woodcrest Ace Hardware Inc.

Chapter 11

In the motion, Debtors assert that Debtor is used as a "common paymaster" for the related debtors. More specifically,

Each of the respective Affiliated Debtors transfers sufficient funds to Woodcrest Ace's payroll account each payroll period to cover that particular debtors individual payroll obligations, including payroll taxes, workers compensation, health insurance, and any third party payroll servicing fees (e.g. Paychex Payroll services). Woodcrest Ace in turn then issues the payroll and related payments to the respective employees and third parties on behalf of each of the debtors from Woodcrest Ace's payroll account.

[Dkt. No. 162, pg. 6, lines 20-28].

TENTATIVE RULING

The Court having reviewed the motion, notice appearing proper, good cause appearing, and noting the absence of any opposition, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h), the Court is inclined to GRANT the motion, authorizing Debtors to continue to use their cash management system.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

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CONT... Woodcrest Ace Hardware Inc.

Chapter 11

Movant(s):

Woodcrest Ace Hardware Inc.

Represented By

Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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2:00 PM

6:19-17537 Jauregui Trucking, Inc.

Chapter 11

#26.00 CONT Emergency Hearing on Debtor's Motion for Authorization to use Cash Collateral

From: 9/4/19

Also #27

EH ____

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

Movant(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

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6:19-17537 Jauregui Trucking, Inc.

Chapter 11

#27.00 Order (1) Setting Scheduling Hearing And Case Management Conference And
(2) Requiring Status Report

Also #26

EH__

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

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10:00 AM

6:19-14673 Daniel Alfred Fox

Chapter 7

#1.00 CONT Reaffirmation Agreement Between Debtor and Alaska USA Federal Credit Union re 2015 Chevrolet Camaro

From: 9/11/19

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Alfred Fox

Represented By
Yolanda Flores-Burt

Trustee(s):

Charles W Daff (TR)

Pro Se

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11:00 AM

6:11-21328 Moses Vasi Savar and Estrella Nina Savar

Chapter 7

#2.00 Motion to Avoid JUDICIAL LIEN with Pacific Labor Source, Inc.

EH__

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Moses Vasi Savar

Represented By
Chris A Mullen

Joint Debtor(s):

Estrella Nina Savar

Represented By
Chris A Mullen

Movant(s):

Moses Vasi Savar

Represented By
Chris A Mullen
Chris A Mullen

Estrella Nina Savar

Represented By
Chris A Mullen
Chris A Mullen
Chris A Mullen
Chris A Mullen
Chris A Mullen

Trustee(s):

Robert Whitmore (TR)

Pro Se

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11:00 AM

6:12-33455 Sergio Reyes and Maria De Los Angeles Reyes

Chapter 7

#3.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 154

Tentative Ruling:

TENTATIVE RULING

10/02/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountants have been set for hearing on the notice required by LBR 2016-1. Pursuant to the trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$25,197.30

Trustee Expenses: \$223.09

Attorney Fees: \$40,127.00

Attorney Costs: \$822.05

Accountant Fees: \$3,444.00

Accountant Costs: \$396.50

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

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CONT... Sergio Reyes and Maria De Los Angeles Reyes

Chapter 7

Debtor(s):

Sergio Reyes

Represented By
Patricia A Mireles

Joint Debtor(s):

Maria De Los Angeles Reyes

Represented By
Patricia A Mireles

Trustee(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

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11:00 AM

6:15-10709 Crossfire Marketing Group LLC

Chapter 7

#4.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 47

Tentative Ruling:

10/02/2019

No opposition has been filed.

Service was Proper.

The applications for compensation of the Trustee and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$1,843.17

Trustee Expenses: \$132.27

Accountant Fees: \$6,622.50

Accountant Costs: \$30.00

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Crossfire Marketing Group LLC

Represented By
Douglas A Plazak

Trustee(s):

John P Pringle (TR)

Pro Se

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6:17-11615 Adam M Ramos

Chapter 7

#5.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 34

Tentative Ruling:

TENTATIVE RULING

10/02/2019

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Commission: \$1,250.00

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Adam M Ramos

Pro Se

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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6:18-13319 Golda Morris

Chapter 7

#6.00 Motion to Approve Compromise Under Rule 9019

EH__

Docket 31

Tentative Ruling:

10/02/19

BACKGROUND

On April 19, 2018, Golda Morris ("Debtor") filed a Chapter 7 voluntary petition. On Form 106A/B—Schedule A/B, Debtor stated she has a wrongful death claim for her husband valued at \$50,000 and an exemption of that same sum in her Schedule C. U.S.C. §522(d)(11)(B).

On January 9, 2018, Debtor had filed a wrongful death suit, alleging that Debtor's husband died from adult abuse and neglect at the hands of Orange County, Inc dba Kindred Hospital, et al ("Kindred Hospital"). The other plaintiffs in the suit were the two children of Debtor's deceased husband. The Debtor was represented by Lanzone Morgan, LLP ("Lanzone Morgan") in the wrongful death suit.

John P. Pringle ("Trustee") was appointed Chapter 7 Trustee of the bankruptcy estate. On October 2, 2018, Trustee filed an application to employ Lanzone Morgan as special counsel to pursue the wrongful death suit:

"Compensation to be paid on a contingency fee equal to forty percent (40%) of any amount recovered...reimburse all cost and expenses incurred by [Lanzone Morgan] including by not limited to, process servers' fees...[Lanzone Morgan] shall send Trustee periodic statements for costs incurred."

On October 23, 2018, the Court approved the employment of Lanzone Morgan as

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11:00 AM

CONT... **Golda Morris**
special counsel.

Chapter 7

The last day to file claims was on December 3, 2018. The claims properly filed amount to \$11,193.63 and number two claims: Jefferson Capital Systems LLC, totaling \$10,284.89, and Yaser A. Slayyeh M.D., Inc, totaling \$908.74.

A settlement has been reached between the plaintiffs and the defendants of the wrongful death claim. Plaintiffs will receive \$300,000.00 and release defendants from all liabilities and waive all rights under Cal. Civ. Code §1542. The Trustee then proceeded to file a Motion to Compromise on August 26, 2019.

Pursuant to learning of the settlement in the wrongful death claim, Medicare requested a payment of services provided to the Debtor's decease husband, totaling \$4,956.75. Medicare is required to recover, pursuant to U.S.C. §1395y(b)(2), any overpayment if payment of a "settlement, judgment, award, or other payment has been or could be made."

The pertinent facts of the compromise as follows:

Settlement Amount	\$300,000.00
Less: Lanzone Morgan's Fees (40%)	\$120,000.00
Less: Lanzone Morgan's Costs	\$14,991.19
Less: Medicare Demand for Payment	\$4,956.75
Total Net Recovery	\$160,052.06
Less: 50% to Decease Husband's Children	\$80,26.03
Less: Debtor's Claimed Exemption	\$50,000.00
Net to Estate	\$30,026.03

The compromise, also, releases Lanzone Morgan from any further responsibilities of the wrongful death suit if the funds are distributed as set forth above.

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CONT... Golda Morris

Chapter 7

DISCUSSION

I. Legal Standard for Approving Compromise

Pursuant to 11 U.S.C. § 1107(a), Debtor has all the rights and duties of a trustee. Rule 9019(a) authorizes the bankruptcy court to approve a compromise or settlement on the trustee's motion and after notice and a hearing. The bankruptcy court must consider all "factors relevant to a full and fair assessment of the wisdom of the proposed compromise." *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968). In other words, the bankruptcy court must find that the settlement is "fair and equitable" in order to approve it. *Martin v. Kane (In re A & C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986).

In conducting this inquiry, the bankruptcy court must consider the following factors:

(a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Id.

The bankruptcy court enjoys broad discretion in approving a compromise because it "is uniquely situated to consider the equities and reasonableness [of it]" *United States v. Alaska Nat'l Bank (In re Walsh Construction, Inc.)*, 669 F.2d 1325, 1328 (9th Cir. 1982). As stated in *A & C Props.*:

The purpose of a compromise agreement is to allow the trustee and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims. The law favors compromise and not litigation for its own sake, and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision must be affirmed.

Id. (citations omitted).

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CONT... Golda Morris

Chapter 7

II. Requested Payment to Medicare

The Court is of the opinion that the request from Medicare payment is not a lien. "A lien is a charge imposed in some mode other than by a transfer in trust upon specific property by which it is made security for the performance of an act." Cal Civ. Code §2872.

The Trustee cites one case, *In re Dickinson*, in his effort to proclaim that payment request from Medicare is a lien. 24 B.R. 547 (Bankr. S.D. Cal. 1982). The Court recognizes that liens may be created by contract of the parties or by operation of law. However, the Trustee neither provided any evidence describing such a contract between the decease and Medicare nor did Medicare follow the procedures to create a lien.

In the alternative, the Trustee implies that it would be against public policy to require Medicare to perfect its claim on the proceeds of a settlement. When Congress required Medicare to reclaim medical care it paid for related to the recovery of a case, it did not stipulate that a lien was created in the proceeds recovered in the case. 42 U.S.C. §1395y(b)(2). Furthermore, Congress gave Medicare the right to bring a cause of action, collecting double damages against the defendant. 42 U.S.C. §1395y(b)(2)(B)(iii). Congress provided Medicare with all the rights it thought was necessary to recover such payments. If Medicare, with all the rights it was given, fails to perfect its claim, it is "out of the money" like any other unsecured creditor. It appears it would be against public policy to give a creditor substantial more rights than Congress envisioned. Nonetheless, as discussed below, the Court will allow payment to Medicare as part of the settlement.

III. Motion to Compromise

The evidence presented reflects that the compromise is in the best interest of the bankruptcy estate. It prevents Medicare and the estate to engage in costly litigation or negotiation. The compromise pays all the non-creditors involved, indirectly or directly, in the wrongful death suit. Furthermore, because the affected creditors are expected to receive substantial distribution, without the time, expense, and uncertainty

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CONT... **Golda Morris**

Chapter 7

inherent in continuing the wrongful death suit, the compromise motion appears to clearly be in the best interests of the estate. For these reasons, and for only these reasons stated in the motion, the Court finds that the *A&C Properties* factors have been satisfied, and the Court is inclined to APPROVE the compromise.

TENTATIVE RULING

The Court is inclined to GRANT the motion, APPROVING the compromise in its entirety subject to the concerns raised in the Order Setting Hearing on Compromise of Controversy.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Golda Morris

Represented By
Christopher Hewitt

Movant(s):

John P Pringle (TR)

Represented By
Toan B Chung

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

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6:19-12225 Nathaniel James Cardiel

Chapter 7

#7.00 Undisclosed and Unsecured Creditor, OGara Coach Companys Notice of Motion and Motion for Order Re: Reopen Debtors Chapter 7 Bankruptcy Case Pursuant to Section 350 of the Bankruptcy Code (Including Reimposing the Automatic Stay) Due to Debtors Material and Fraudulent Non-disclosures

EH__

Docket 21

***** VACATED *** REASON: ORDER ENTERED 9/17/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nathaniel James Cardiel

Represented By
Sevan Gorginian

Movant(s):

O'Gara Coach Company, LLC

Represented By
Thomas J Polis

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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6:19-14440 Herber Morales and Ana L Morales

Chapter 7

#8.00 Motion for order extending time to file reaffirmation agreement and to defer entry of discharge

EH__

Docket 22

Tentative Ruling:

10/02/19

BACKGROUND

On May 22, 2019, Herber Morales and Ana L. Morales (collectively, the "Debtors") filed for Chapter 7 voluntary petition. One of the properties listed on Debtors' Schedule A/B is a single-family home. As of the date of the motion, Debtors still owe \$352,698.00 and would like to reaffirm the debt.

Debtors claim that they need additional time to prepare, execute, and file a reaffirmation agreement between themselves and Nationstar, the creditor whose debt is secured by the property. Debtors want an additional thirty days from the granting of this motion to extend the entry of discharge in order to file a reaffirmation agreement.

DISCUSSION

"A reaffirmation agreement and a motion for approval of the reaffirmation agreement under 11 U.S.C. §524 must be filed by the debtor or creditor within 60 days following the conclusion of the first meeting of creditors under 11 U.S.C. § 341(a), unless otherwise ordered by the court." LBR 4008-1. In this situation, the last day to file a reaffirmation agreement, unless otherwise ordered by the court, was on August 26, 2019. Furthermore, "the [C]ourt shall forthwith grant the discharge, except that the court shall not grant the discharge if...a motion to enlarge the time to file a reaffirmation agreement under Rule 4008(a) is pending. Fed. R. Bankr. P. 4004(c)(1) (J).

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CONT... Herber Morales and Ana L Morales

Chapter 7

The Court agrees with the Debtors. The extension for thirty days would not prejudice any party, and an extension would allow Debtors a better opportunity to retain their home through a reaffirmation agreement.

TENTATIVE RULING

The Court is inclined to GRANT the motion requested and provide an extension of the date of discharge to no earlier than November 4, 2019.

APPEARANCES WAIVED. Movant to file an order within 7 days.

Party Information

Debtor(s):

Herber Morales

Represented By
Paul Y Lee

Joint Debtor(s):

Ana L Morales

Represented By
Paul Y Lee

Movant(s):

Herber Morales

Represented By
Paul Y Lee

Ana L Morales

Represented By
Paul Y Lee

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:19-15007 Robert Wayne Young

Chapter 7

#9.00 CONT Motion For Order Compelling Turnover Of Real Property Pursuant To 11 U.S.C. § 542(a)

From: 10/2/19

EH__

Docket 19

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/30/19**

Tentative Ruling:

MOTION FOR TURNOVER

NO OPPOSITION

BACKGROUND

On June 8, 2019, Robert Young ("Debtor") filed his voluntary Ch. 7 petition. Within Debtor's schedules, Debtor disclosed his possession of a home at 734 Grassy Meadow Dr., San Jacinto, CA 92825 (the "Property"), with a scheduled stated value of \$324,000. Debtor has claimed a \$100,000 exemption in the property under Cal. Civ. Code § 704.730. The Property is burdened by scheduled debts totaling \$206,681 representing the 1st Mortgage held by Darrington Mortgage in the amount of \$180,000 and the 2nd Mortgage held by Novad Management Consulting LLC/HUD in the amount of \$55,681.00. There is also a scheduled lien for solar panels in the amount of \$40,000 which is held by Clean Energy Ygrene. None of those parties have yet filed claims in the case.

On August 1, 2019, the Chapter 7 Trustee ("Trustee") filed this motion for turnover of the Property, on the basis of their belief that there may be equity within the Property. Trustee did not file any additional evidence or explanation in support of their motion, besides a statement that they were informed and believed that there was net equity in the estate. In addition, Trustee also declared that Debtor and Debtor's counsel had been uncooperative in preparing the Property for a potential future sale.

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CONT... Robert Wayne Young

Chapter 7

DISCUSSION

Trustee filed his motion for turnover under § 542 with the stated intent of selling the Property under § 363(f). The benefit of the Property to the estate is thus the net equity which could be obtained through such a sale. However, the Trustee has not put forward any evidence of net equity in the property, besides a statement that they were informed and believed there was. This appears to be referring to Debtor's schedules.

Upon review of Debtor's schedules, it is unclear if net equity exists in the Property at this time. Debtor's Schedule A lists the value of the Property as \$324,000, and his Schedule D lists the combined mortgages burdening the Property as \$206,681. His Schedule D also lists a \$40,000 lien for solar panels which likely further burden the Property. In addition, Debtor has also claimed a \$100,000 exemption pursuant to Cal. Civ. Code § 704.730 in the equity in the Property in his Schedule C. This adds up to a total of \$366,681 in potential encumbrances and claims on the equity of the Property, whose value is currently listed at \$324,000.

TENTATIVE RULING

8/28/2019

SERVICE: PROPER

OPPOSITION: NONE.

While the Court understands the frustration of the Trustee as to Debtor's failure to cooperate with the potential marketing and sale of the Property, the Court is inclined to find that more evidence is needed at this time as to whether there is any net equity in the Property to warrant turnover.

APPEARANCES REQUIRED.

Party Information

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CONT... Robert Wayne Young

Chapter 7

Debtor(s):

Robert Wayne Young

Represented By
Cynthia A Dunning

Movant(s):

Karl T Anderson (TR)

Represented By
Robert P Goe
Ryan S Riddles

Trustee(s):

Karl T Anderson (TR)

Represented By
Robert P Goe
Ryan S Riddles

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6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01222 Anderson, Chapter 7 Trustee v. Bobby Lee Associates, LLC

#10.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01222. Complaint by Karl T. Anderson, Chapter 7 Trustee against Bobby Lee Associates, LLC. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(14 (Recovery of money/property - other)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Polis, Thomas)

From: 1/16/19, 4/17/19, 6/12/19, 9/18/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Bobby Lee Associates, LLC

Represented By
Keith S Knochel

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

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6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:19-01080 United States Trustee for the Central District of v. Bastorous et al

#11.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01080. Complaint by United States Trustee for the Central District of California, Region 16 against Mark Bastorous, Bernadette Shenouda. (Fee Not Required). with adversary cover sheet Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e))) (Green, Everett)

From: 7/17/19, 8/28/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Mark Bastorous

Represented By
Thomas F Nowland

Bernadette Shenouda

Represented By
Thomas F Nowland

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

United States Trustee for the Central

Represented By
Everett L Green

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CONT... Mark Bastorous

Chapter 7

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

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6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#12.00 Motion in Limine by Defendants Real Time Resolutions, Inc. and The Bank of New York Mellon fka The Bank of New York, as Trustee for the Certification Holders of CWHEQ Revolving Home Equity Loan Trust, Series 2007-D for an Order to exclude evidence to be offered by Plaintiff at trial

EH__

Docket 192

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luevina Henry

Pro Se

Defendant(s):

Real Time Resolutions Inc

Represented By
Renee M Parker
James F Lewin

THE BANK OF NEW YORK

Represented By
Renee M Parker
James F Lewin

Riverside County Sheriff

Represented By
Ronak N Patel

Tavares

Pro Se

Movant(s):

Real Time Resolutions Inc

Represented By
Renee M Parker
James F Lewin

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CONT... Luevina Henry
THE BANK OF NEW YORK

Chapter 13

Represented By
Renee M Parker
Renee M Parker
James F Lewin
James F Lewin

Plaintiff(s):

Luevina Henry

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#13.00 CONT Pre-Trial Conference RE: [1] Adversary case 6:17-ap-01187. Complaint fld 8-25-17 - Dischargeability, willful and malicious injury, validity, priority or extent of lien or other interest in property, injunctive relief

From: 8/28/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luevina Henry Pro Se

Defendant(s):

Real Time Resolutions Inc Represented By
Renee M Parker
James F Lewin

THE BANK OF NEW YORK Represented By
Renee M Parker
James F Lewin

Riverside County Sheriff Represented By
Ronak N Patel

Tavares Pro Se

Plaintiff(s):

Luevina Henry Pro Se

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Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-14440 Michael Douglas Guerino and Xochitl Rodriguez Guerino

Chapter 13

#1.00 Motion to vacate dismissal based on Mistake, Inadvertance, Surprise, or Excusable Neglect and to Reinstate their Chapter 13 Case

EH__

Docket 106

***** VACATED *** REASON: HEARING ADVANCED TO 9/19/19 AT
2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Douglas Guerino

Represented By
J.D. Cuzzolina

Joint Debtor(s):

Xochitl Rodriguez Guerino

Represented By
J.D. Cuzzolina

Movant(s):

Michael Douglas Guerino

Represented By
J.D. Cuzzolina
J.D. Cuzzolina
J.D. Cuzzolina

Xochitl Rodriguez Guerino

Represented By
J.D. Cuzzolina
J.D. Cuzzolina
J.D. Cuzzolina

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:18-13810 Mario Portillo

Chapter 13

#2.00 Motion to Disallow Claims of Pinnacle Credit Services (Claim 3-1)

EH__

Docket 39

Tentative Ruling:

10/3/19

BACKGROUND:

On May 4, 2018, Mario Portillo ("Debtor") filed a Chapter 13 voluntary petition. On August 9, 2018, Debtor's Chapter 13 plan was confirmed.

On June 28, 2018, Pinnacle Credit Services, LLC ("Creditor") filed a proof of claim for an unsecured claim in the amount of \$2,067.51 ("Claim 3"). On August 22, 2019, Debtor filed an objection to Claim 3. Debtor argues that Claim 3 is barred by the statute of limitations. Creditor did not file any opposition.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP

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CONT... Mario Portillo

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9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the

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debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 3 appears to be based on an overdue phone bill. Therefore, it appears that Claim 4 fits within the category established by CAL. CODE CIV. P. § 337, and that the statute of limitations is four years. The proof of claim identifies a last payment date of October 16, 2010. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 3 is unenforceable.

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 3 in its entirety..

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Mario Portillo

Represented By
Rebecca Tomilowitz

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CONT... Mario Portillo

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Movant(s):

Mario Portillo

Represented By
Rebecca Tomilowitz
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#3.00 CONT Motion RE: Objection to Claim Number 5 by Claimant Specialized Loan Servicing LLC

From: 8/22/19

Also #4 & #5

EH __

Docket 30

Tentative Ruling:

8/22/2019

BACKGROUND:

On April 15, 2019, Mark & Elizabeth Swartz ("Debtors") filed a Chapter 13 voluntary petition. On June 21, 2019, The Bank of New York Mellon f/k/a The Bank of New York as successor Indenture trustee to JPMorgan Chase Bank, National Association for CWHEQ Revolving Home Equity Loan Trust, Series 2006-F ("Creditor") filed a proof of claim for a secured claim in the amount of \$157,959.06 ("Claim 5").

On July, 2019, Debtors filed an objection to Claim 5. Debtors argue that the information filed in support of Claim 5 is inadequate pursuant to the Federal Rules of Bankruptcy Procedure, and that, as a result, Creditor has failed to meet its burden of proof.

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APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

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Chapter 13

Local Rule 3007-1(b)(2) provides that a "claim objection must be served on the claimant at the address disclosed by the claimant in its proof of claim and at such other addresses and upon such parties as may be required by FRBP 7004 and other applicable rules. Here, the claim objection states that it was served at "8749 Lucent Blvd." rather than at the address listed on Claim 5, "8742 Lucent Blvd."

TENTATIVE RULING

The Court is inclined to CONTINUE the matter for proper service on Creditor.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Movant(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Elizabeth M Swartz

Represented By
Joseph A Weber
Joseph A Weber

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Fritz J Firman

Fritz J Firman

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#4.00 Motion RE: Objection to Claim Number 5 by Claimant Specialized Loan Servicing LLC

Also #3 & #5

EH ____

Docket 44

Tentative Ruling:

10/3/2019

BACKGROUND:

On April 15, 2019, Mark & Elizabeth Swartz ("Debtors") filed a Chapter 13 voluntary petition. On June 21, 2019, The Bank of New York Mellon f/k/a The Bank of New York as successor Indenture trustee to JPMorgan Chase Bank, National Association for CWHEQ Revolving Home Equity Loan Trust, Series 2006-F ("Creditor") filed a proof of claim for a secured claim in the amount of \$157,959.06 ("Claim 5").

On July 10, 2019, Debtors filed an objection to Claim 5. Debtors argued that the information filed in support of Claim 5 is inadequate pursuant to the Federal Rules of Bankruptcy Procedure, and that, as a result, Creditor has failed to meet its burden of proof. At the hearing of August 22, 2019, the Court noted that there appeared to be an error on the proof of service which resulted in Creditor's notice address being misstated. For that reason, the Court continued the matter for proper service.

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On August 30, 2019, Debtors filed a renewed objection to Claim 5. The Court notes that notice and service are now proper.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

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CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

FED. R. BANKR. P. Rule 3001(c)(2) identifies certain required information that a claimant must attach to a proof of claim in order for the claim to be afforded *prima facie* validity. In particular, the Court notes that Rule 3001(c)(2)(A) and (C) provide requirements related to the itemization of non-principal amounts and escrow amounts, respectively.

The Court finds Debtors' assertion that the supporting information is inadequate to be well-founded. The mortgage proof of claim attachment includes the following information. Part 2 identifies a principal balance of \$98,982.98, interest due of \$55,486.25, and fees and costs of \$3,489.83. Part 3 identifies a pre-petition arrears of \$87,692.60, of which \$84,202.77 was principal and \$3,489.83 was the aforementioned costs. And Part 4 asserts that the month payment includes \$607.39 for principal and interest and \$549.90 for escrow.

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CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

The two figures which do not appear to be justified in the supporting documentation are the \$55,486.25 in interest and the \$549.90 monthly payment for escrow. The Court notes that the loan payment history spreadsheet provided by Creditor does not contain any itemization for interest or escrow, and, furthermore, the entire column relating to accrued interest balance and accrued escrow balance is zeroed out.

Because Creditor has failed to separate principal, interest, and escrow, as directed by FED. R. BANKR. P. Rule 3001(c)(2), and, noting that Debtors have declared that there is no escrow account relating to the second mortgage, the Court is unable to determine the validity or amount of the prepetition default identified in column G of the loan payment history. The Court has also not been provided with any itemization or calculation of the interest amount, alleged to be \$55,486.25.

As a result, the Court is inclined to reduce Claim 5 to \$102,472.81, representing the principal balance and fees and costs due in part 2 of the loan payment history, with a prepetition arrearage amount of \$0.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Movant(s):

Mark G Swartz

Represented By

**United States Bankruptcy Court
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CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

Joseph A Weber
Fritz J Firman

Elizabeth M Swartz

Represented By
Joseph A Weber
Joseph A Weber
Fritz J Firman
Fritz J Firman

PYOD LLC

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#5.00 CONT Confirmation of Chapter 13 Plan

From: 7/11/19, 8/22/19

Also #3 & #4

EH __

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-13651 Juan Manuel Robles

Chapter 13

#6.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19, 8/22/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Manuel Robles

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13768 Daniel Ray Love and Fatin Badawi Love

Chapter 13

#7.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19, 8/22/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Ray Love

Represented By
Raj T Wadhvani

Joint Debtor(s):

Fatin Badawi Love

Represented By
Raj T Wadhvani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-13994 Oscar Carrasco De Dios and Sofia P. De Dios

Chapter 13

#8.00 CONT Motion RE: Objection to Claim Number 4 by Claimant CIT BANK, N.A..

From: 9/5/19

Also #9

EH__

Docket 22

***** VACATED *** REASON: CONTINUED TO 12/5/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada

Joint Debtor(s):

Sofia P. De Dios

Represented By
Glenn Ward Calsada

Movant(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada
Glenn Ward Calsada
Glenn Ward Calsada

Sofia P. De Dios

Represented By
Glenn Ward Calsada
Glenn Ward Calsada

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-13994 Oscar Carrasco De Dios and Sofia P. De Dios

Chapter 13

#9.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19, 9/5/19

Also #8

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada

Joint Debtor(s):

Sofia P. De Dios

Represented By
Glenn Ward Calsada

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-14325 Martin Ontiveros

Chapter 13

#10.00 CONT Confirmation of Chapter 13 Plan

From: 8/22/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martin Ontiveros

Represented By
Allan O Cate

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-14586 Jose Luis Garcia and Yanira Valdez

Chapter 13

#11.00 CONT Confirmation of Chapter 13 Plan

From: 8/22/19, 9/19/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Luis Garcia

Represented By
Daniel King

Joint Debtor(s):

Yanira Valdez

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-15328 Angel Victoriano and Maura Guzman

Chapter 13

#12.00 CONT Confirmation of Chapter 13 Plan

From: 9/19/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angel Victoriano

Represented By
Edward T Weber

Joint Debtor(s):

Maura Guzman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-15330 Charles Dennis West

Chapter 13

#13.00 Motion to Disallow Claims 4 of Navy Federal Credit Union

Also #14

EH__

Docket 24

Tentative Ruling:

10/3/19

BACKGROUND:

On June 18, 2019, Charles West ("Debtor") filed a Chapter 13 voluntary petition.

On July 23, 2019, Navy Federal Creditor Union ("Creditor") filed a proof of claim for an unsecured claim in the amount of \$8,276.15 ("Claim 4"). On August 26, 2019, Debtor filed an objection to Claim 4. Debtor argues that Claim 4 is barred by the statute of limitations. Creditor did not file any opposition.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim,

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CONT... Charles Dennis West

Chapter 13

that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

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CONT... Charles Dennis West

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(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 4 is based on money loaned and Claim 4 includes, as an attachment, the written loan agreement. Therefore, Claim 4 fits within the category established by CAL. CODE CIV. P. § 337, and the statute of limitations is four years. The proof of claim identifies a last payment date of December 22, 2010. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 4 is unenforceable.

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 4 in its entirety..

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Charles Dennis West

Represented By

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CONT... Charles Dennis West

Chapter 13

Erika Luna

Movant(s):

Charles Dennis West

Represented By
Erika Luna

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-15330 Charles Dennis West

Chapter 13

#14.00 CONT Confirmation of Chapter 13 Plan

From: 9/19/19

Also #13

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Dennis West

Represented By
Erika Luna

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:19-15689 Jerson Alonzo and Lizeth Alonzo

Chapter 13

#15.00 CONT Confirmation of Chapter 13 Plan

From: 9/19/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerson Alonzo

Represented By
Inez Tinoco-Vaca

Joint Debtor(s):

Lizeth Alonzo

Represented By
Inez Tinoco-Vaca

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-15755 Steven Martinez-Large and Amber Martinez-Large

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Steven Martinez-Large

Represented By
Christopher Hewitt

Joint Debtor(s):

Amber Martinez-Large

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-15773 Joe Medina

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joe Medina

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-15777 Cathryn A. Schioppi

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cathryn A. Schioppi

Represented By
Gregory Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-15789 Rosemm Roldan Jimenez

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rosemm Roldan Jimenez

Represented By
Raymond J Seo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-15812 Carlos Zelaya and Gabriela Zelaya

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlos Zelaya

Represented By
Dana Travis

Joint Debtor(s):

Gabriela Zelaya

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-15816 Sally Marie Smith

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 7/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sally Marie Smith

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-15822 Marco A Vidal

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 7/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marco A Vidal

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-15857 Aron Christopher Wright

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Aron Christopher Wright

Represented By
Tom A Moore

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-15859 Delmer Sylvester and Susan Sylvester

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Delmer Sylvester

Represented By
Paul Y Lee

Joint Debtor(s):

Susan Sylvester

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-15887 Nora Noemy Cobas

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nora Noemy Cobas

Represented By
Patricia A Mireles

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-15920 Charles Oard Cheatham

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 7/23/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Oard Cheatham

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-15951 Jennifer Wilder

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 7/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Wilder

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-15958 Gwendolyn Onuekwusi

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 8/13/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gwendolyn Onuekwusi

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-15963 Ramon H. Ventura, Jr. and Clementine Ventura

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ramon H. Ventura Jr.

Represented By

Patricia M Ashcraft - SUSPENDED BK -

Joint Debtor(s):

Clementine Ventura

Represented By

Patricia M Ashcraft - SUSPENDED BK -

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Hearing Room 303

11:00 AM

6:19-15979 James Meyer

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 7/29/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Meyer

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-15980 Jonathon Keith Stoner and Jacqueline Belinda Stoner

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jonathon Keith Stoner

Represented By
Sundee M Teeple

Joint Debtor(s):

Jacqueline Belinda Stoner

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-15995 June A. Bitanga and Maria Teresita A Bitanga

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

June A. Bitanga

Represented By
Gregory Ashcraft

Joint Debtor(s):

Maria Teresita A Bitanga

Represented By
Gregory Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-16050 Juan Figueroa and Nancy Figueroa

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Figueroa

Represented By
Inez Tinoco-Vaca

Joint Debtor(s):

Nancy Figueroa

Represented By
Inez Tinoco-Vaca

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-16065 Iris M Gonzalez

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Iris M Gonzalez

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-16067 Julie Anne Meyer

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Anne Meyer

Represented By
Marjorie M Johnson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-16068 John B Jensen

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John B Jensen

Represented By
Marjorie M Johnson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-16072 Sara Rolston

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sara Rolston

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-16078 Carmen Abel

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carmen Abel

Represented By
Amanda G Billyard

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-16298 Juan Antonio Clement and Karen Lynn Clement

Chapter 13

#39.00 CONT Motion to Avoid Junior Lien with Aspen Properties Group, LLC
(Holding Date)

From: 8/22/19

EH__

Docket 13

Tentative Ruling:

8/21/2019

The Court is inclined to CONTINUE the matter to allow Creditor adequate time to conduct an appraisal of the subject real property.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Juan Antonio Clement

Represented By
Todd L Turoci

Joint Debtor(s):

Karen Lynn Clement

Represented By
Todd L Turoci

Movant(s):

Juan Antonio Clement

Represented By
Todd L Turoci

Karen Lynn Clement

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 3, 2019

Hearing Room 303

11:00 AM

CONT... Juan Antonio Clement and Karen Lynn Clement

Chapter 13

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-16782 Raymond Edward Reeley

Chapter 13

#40.00 Motion by United States Trustee to Dismiss Chapter 13 Case with a Re-filing Bar

EH__

Docket 9

Tentative Ruling:

10/3/19

BACKGROUND

On August 2, 2019, Raymond Reeley ("Debtor") filed a skeletal Chapter 13 voluntary petition. Debtor had two bankruptcies filings in the previous year. The first, a Chapter 13 filed in August 2018, was dismissed for failure to file case commencement documents. The second, a Chapter 13 filed in May 2019, was dismissed for failure to file case commencement documents. The petition omits the filing from 2018.

The balance of Debtor's case commencement documents were due August 16, 2019. Debtor did not file the balance of the case commencement documents. On August 19, 2019, UST filed a motion to dismiss the case with a one-year bar to re-filing.

DISCUSSION

Regarding UST's request to dismiss the case, 11 U.S.C. § 1307(c) provides a non-exhaustive list of grounds for dismissal of a Chapter 13 case. Sections 1307(c)(1), (3), (4), and (9) all provide grounds to dismiss a Chapter 13 case when the debtor files a

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:00 AM

CONT... Raymond Edward Reeley

Chapter 13

skeletal petition and fails to take any further action to prosecute the case. Section 1307(c) instructs the Court, however, to consider whether dismissal or conversion is in the best interests of creditors. Taking judicial notice of the schedules filed in Debtor's most recent case, 6:19-bk-14078-MH, it appears Debtor could have certain unexempt assets which could provide a distribution to creditors. UST has not addressed whether dismissal or conversion would be in the best interests of creditors.

Assuming that dismissal is in the best interests of creditors, the court notes that it empowered to impose a refiling bar under 11 U.S.C. § 349(a). As COLLIER notes, courts' analysis of this section is somewhat confused due to confounding "dismissal with prejudice" with "dismissal with injunction against future filings." COLLIER ON BANKRUPTCY ¶ 349.02[3]; *compare In re Garcia*, 479 B.R. 488 (Bankr. N.D. Ind. 2012) (denying motion for dismissal with prejudice, but imposing three-year refiling bar) *with In re Craighead*, 377 B.R. 648 (Bankr. N.D. Cal. 2007) (appearing to equate dismissal with prejudice with an injunction against refiling).

There is also a circuit split concerning whether an injunction on refiling for more than 180 days is allowed under the Bankruptcy Code. *Compare In re Frieouf*, 938 F.2d 1099 (10th Cir. 1991) (180 days is maximum allowed length of refiling injunction) *with Casse v. Key Bank Nat. Ass'n*, 198 F.3d 327 (2nd Cir. 1999) (injunction against filing for more than 180 days permissible). 11 U.S.C. § 349(a) reads:

Unless, the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(g) of this title.

The disagreement revolves around whether the qualifier "Unless, the court, for cause, orders otherwise" modifies the content after the semi-colon. *In re Leavitt* noted this disagreement, but since the court was dealing with a dismissal with prejudice, rather than an injunction against refiling, it did not resolve the issue. 209 B.R. 935, 942 (9th Cir. B.A.P. 1997). Within the Ninth Circuit, it appears the trend is to adopt the reasoning of the Second Circuit and allow injunctions for more than 180 days, and the Court agrees with that reading of the statute. *See e.g. In re Velasques*, 2012 WL

**United States Bankruptcy Court
Central District of California
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Thursday, October 3, 2019

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11:00 AM

CONT... **Raymond Edward Reeley**
8255582 at *3 (Bankr. E.D. Cal. 2012).

Chapter 13

Here, the instant bankruptcy is Debtor's third filing in the previous twelve months in which Debtor filed an incomplete petition and failed to cure the deficiency. Furthermore, Debtor failed to disclose a previous filing in the voluntary petition, which is signed under penalty of perjury. For these reasons, the Court is inclined to find the requested one-year refiling bar to be appropriate in the circumstances presented.

Moreover, Debtor's failure to oppose is deemed consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

UST to address whether dismissal or conversion is in the best interests of creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Raymond Edward Reeley	Pro Se
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Movant(s):

United States Trustee (RS)	Represented By Abram Feuerstein esq
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Trustee(s):

Rod Danielson (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-16831 Paul Kirkwood

Chapter 13

#41.00 Motion by United States Trustee to Dismiss Chapter 13 Case with a Re-filing Bar

EH__

Docket 10

Tentative Ruling:

10/3/19

BACKGROUND

On August 5, 2019, Paul Kirkwood ("Debtor") filed a skeletal Chapter 13 voluntary petition. Debtor had three previous bankruptcies filings in since the beginning of 2018. The first, a Chapter 13 filed in March 2018, was dismissed at the confirmation hearing. The second, a Chapter 13 filed in July 2018, was dismissed for failure to make plan payments eight months into the case. The third, a Chapter 13 filed in March 2019, was dismissed at the confirmation hearing. All of these previous cases were filed with the assistance of counsel. The instant case, however, was filed *pro se*. The petition in the instant case stated that Debtor had not filed for bankruptcy within the previous eight years.

The balance of Debtor's case commencement documents were due August 19, 2019. Debtor did not file the balance of the case commencement documents. On August 21, 2019, UST filed a motion to dismiss the case with a one-year bar to re-filing.

DISCUSSION

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

CONT... Paul Kirkwood

Chapter 13

Regarding UST's request to dismiss the case, 11 U.S.C. § 1307(c) provides a non-exhaustive list of grounds for dismissal of a Chapter 13 case. Sections 1307(c)(1), (3), (4), and (9) all provide grounds to dismiss a Chapter 13 case when the debtor files a skeletal petition and fails to take any further action to prosecute the case. Section 1307(c) instructs the Court, however, to consider whether dismissal or conversion is in the best interests of creditors. Taking judicial notice of the schedules filed in Debtor's most recent case, 6:19-bk-12402-MH, it appears Debtor may have certain unexempt assets which could provide a distribution to creditors. UST has not addressed whether dismissal or conversion would be in the best interests of creditors.

Assuming that dismissal is in the best interests of creditors, the court notes that it empowered to impose a refiling bar under 11 U.S.C. § 349(a). As COLLIER notes, courts' analysis of this section is somewhat confused due to confounding "dismissal with prejudice" with "dismissal with injunction against future filings." COLLIER ON BANKRUPTCY ¶ 349.02[3]; *compare In re Garcia*, 479 B.R. 488 (Bankr. N.D. Ind. 2012) (denying motion for dismissal with prejudice, but imposing three-year refiling bar) with *In re Craighead*, 377 B.R. 648 (Bankr. N.D. Cal. 2007) (appearing to equate dismissal with prejudice with an injunction against refiling).

There is also a circuit split concerning whether an injunction on refiling for more than 180 days is allowed under the Bankruptcy Code. *Compare In re Frieouf*, 938 F.2d 1099 (10th Cir. 1991) (180 days is maximum allowed length of refiling injunction) with *Casse v. Key Bank Nat. Ass'n*, 198 F.3d 327 (2nd Cir. 1999) (injunction against filing for more than 180 days permissible). 11 U.S.C. § 349(a) reads:

Unless, the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(g) of this title.

The disagreement revolves around whether the qualifier "Unless, the court, for cause, orders otherwise" modifies the content after the semi-colon. *In re Leavitt* noted this disagreement, but since the court was dealing with a dismissal with prejudice, rather than an injunction against refiling, it did not resolve the issue. 209 B.R. 935, 942 (9th

**United States Bankruptcy Court
Central District of California
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Thursday, October 3, 2019

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11:00 AM

CONT... Paul Kirkwood

Chapter 13

Cir. B.A.P. 1997). Within the Ninth Circuit, it appears the trend is to adopt the reasoning of the Second Circuit and allow injunctions for more than 180 days, and the Court agrees with that reading of the statute. *See e.g. In re Velasques*, 2012 WL 8255582 at *3 (Bankr. E.D. Cal. 2012).

Here, the instant bankruptcy is Debtor's fourth filing in the previous eighteen months in which Debtor failed to successfully prosecute his case. Furthermore, Debtor failed to disclose his previous filings in the voluntary petition, which is signed under penalty of perjury. For these reasons, the Court is inclined to find the requested one-year refiling bar to be appropriate in the circumstances presented.

Moreover, Debtor's failure to oppose is deemed consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

UST to address whether dismissal or conversion is in the best interests of creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Paul Kirkwood

Pro Se

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:00 AM

6:19-17846 Christopher Lee Sumners

Chapter 13

#41.10 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Personal Property that includes a 2011 Toyota Tacoma

MOVANT: CHRISTOPHER LEE SUMNERS

From: 10/1/19

EH__

Docket 14

Tentative Ruling:

10/1/2019

Service: Proper
Opposition: None

Debtor had a prior case dismissed in the previous calendar year for failure to perform the terms of a plan confirmed by the court. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(C)(i)(II)(cc), the instant bankruptcy case is presumed to have been filed in bad faith. Pursuant to 11 U.S.C. § 362(c)(3)(C), the Court requires "clear and convincing" evidence to rebut the presumption of bad faith. Here, Debtor has provided no evidence regarding his new financial situation, only saying that his income from a new business is consistent. Because this evidence fails to meet the heightened standard imposed by § 362(c)(3)(C), the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Christopher Lee Sumners

Represented By
Paul Y Lee

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Thursday, October 3, 2019

Hearing Room 303

11:00 AM

CONT... Christopher Lee Sumners

Chapter 13

Movant(s):

Christopher Lee Sumners

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:14-19520 Jeffrey B Jordan

Chapter 13

#42.00 Trustee's Motion to Dismiss Case

EH ____

Docket 71

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey B Jordan

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:15-17060 Chris Alvarado Espinoza

Chapter 13

#43.00 Trustee's Motion to Dismiss Case

EH ____

Docket 73

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Chris Alvarado Espinoza

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:15-20023 Zachary Lee Nowak

Chapter 13

#44.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19

EH ____

Docket 127

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zachary Lee Nowak

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:16-16319 Jeffrey Otto Schellin and Jennifer Lynn Schellin

Chapter 13

#45.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19

EH ____

Docket 85

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey Otto Schellin

Represented By
John F Brady

Joint Debtor(s):

Jennifer Lynn Schellin

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:16-18621 John Wesley Wilson, Jr. and Michelle Janet Wilson

Chapter 13

#46.00 Trustee's Motion to Dismiss Case

EH__

Docket 71

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Wesley Wilson Jr.

Represented By
Julie J Villalobos

Joint Debtor(s):

Michelle Janet Wilson

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:16-20081 Richard LaFayette Sellers

Chapter 13

#47.00 Trustee's Motion to Dismiss Case

EH__

Docket 47

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard LaFayette Sellers

Represented By
Marjorie M Johnson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-12612 Guy F Gerber

Chapter 13

#48.00 Trustee's Motion to Dismiss Case

EH ____

Docket 31

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Guy F Gerber

Represented By
Sundee M Teeple
Craig K Streed

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-13114 Linda Blakely and Calvin Blakely

Chapter 13

#49.00 Trustee's Motion to Dismiss Case

EH ____

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Linda Blakely

Represented By
Suzette Douglas

Joint Debtor(s):

Calvin Blakely

Represented By
Suzette Douglas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#50.00 CONT Trustee's Motion to Dismiss Case

From: 9/5/19

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-13400 Dave Anthony Williams

Chapter 13

#51.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19

EH ____

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dave Anthony Williams

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-14770 Lamar Ramon Benjamin

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH ____

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lamar Ramon Benjamin

Represented By
Ethan Kiwhan Chin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-15343 Jennifer Isabella Solares

Chapter 13

#53.00 CONT Trustee's Motion to Dismiss Case

From: 8/22/19, 9/5/19

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Isabella Solares

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-16503 Irene Elizabeth Arias

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH__

Docket 36

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/19/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Irene Elizabeth Arias

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-16820 Anna Marie Montgomery

Chapter 13

#55.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19

EH ____

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anna Marie Montgomery

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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Courtroom 303 Calendar

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-16996 Gabriel Cruz

Chapter 13

#56.00 CONT Trustee's Motion to Dismiss Case

From: 9/5/19, 9/19/19

EH__

Docket 50

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/25/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gabriel Cruz

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-17556 Daniel Javier Garcia

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 67

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Javier Garcia

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
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Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-17605 Joseph N Duguay, II

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 76

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph N Duguay II

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-18821 Humberto Camacho, Jr and Sarah Camacho

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Humberto Camacho Jr

Represented By
Christian N. Cooper

Joint Debtor(s):

Sarah Camacho

Represented By
Christian N. Cooper

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-20547 Tawnie L Vanderham

Chapter 13

#60.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19

EH ____

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tawnie L Vanderham

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:19-10669 Michael Anthony Delgado, III

Chapter 13

#61.00 CONT Trustee's Motion to Dismiss Case

From: 8/1/19, 8/22/19

EH ____

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Anthony Delgado III

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:19-11041 Caleb J. Bellot and Mandle Lynn Bellot

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH ____

Docket 42

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Caleb J. Bellot

Represented By
Daniel King

Joint Debtor(s):

Mandle Lynn Bellot

Represented By
Daniel King

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:19-11992 Pablo Cornejo

Chapter 13

#63.00 Trustee's Motion to Dismiss Case

EH ____

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pablo Cornejo

Represented By
Daniel King
Lois A Gober

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:17-20487 Ann Marie Smith

Chapter 13

#64.00 Trustee's Motion to Dismiss Case

EH__

Docket 101

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ann Marie Smith

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:19-13874 Marisol Smith

Chapter 13

#65.00 Trustee's Motion to Dismiss Case

EH__

Docket 34

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marisol Smith

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:18-10112 Eddie Garcia and Martha Garcia

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH__

Docket 70

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddie Garcia

Represented By
Paul Y Lee

Joint Debtor(s):

Martha Garcia

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 3, 2019

Hearing Room 303

11:01 AM

6:17-15772 Annette Leshon Rudd

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH__

Docket 96

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annette Leshon Rudd

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 8, 2019

Hearing Room 303

2:00 PM

6:19-18002 Joseph R. Hernandez

Chapter 13

#1.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: JOSEPH HERNANDEZ

EH__

Docket 12

***** VACATED *** REASON: CONTINUED TO 10/8/19 AT 3:00 P.M.**

Party Information

Debtor(s):

Joseph R. Hernandez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 8, 2019

Hearing Room 303

2:00 PM

6:19-17992 Judy May Wells

Chapter 13

#2.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Single Family Home 1724 Beacon Court, San Jacinto, CA 92582 and 2 Cars

MOVANT: JUDY MAY WELLS

EH__

Docket 19

***** VACATED *** REASON: CONTINUED TO 10/8/19 AT 3:00 P.M.**

Party Information

Debtor(s):

Judy May Wells

Represented By
David L Nelson

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, October 8, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#3.00 Motion for approval of chapter 11 disclosure statement

EH__

Docket 181

*** VACATED *** REASON: CONTINUED TO 10/29/19 AT 2:00 P.M.

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 8, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#4.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 3/20/18, 8/21/18, 10/23/18, 11/27/18, 2/5/19, 5/7/19, 7/30/19

EH__

Docket 16

***** VACATED *** REASON: CONTINUED TO 10/29/19 AT 2:00 P.M.**

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 8, 2019

Hearing Room 303

3:00 PM

6:19-17992 Judy May Wells

Chapter 13

#5.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Single Family Home 1724 Beacon Court, San Jacinto, CA 92582 and 2 Cars

MOVANT: JUDY MAY WELLS

From: 10/8/19 at 2:00 P.M.

EH__

Docket 19

Party Information

Debtor(s):

Judy May Wells

Represented By
David L Nelson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 8, 2019

Hearing Room 303

3:00 PM

6:19-18002 Joseph R. Hernandez

Chapter 13

#6.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: JOSEPH HERNANDEZ

From: 10/8/19 at 2:00 P.M.

EH__

Docket 12

Party Information

Debtor(s):

Joseph R. Hernandez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

10:00 AM

6:19-16613 Todd Robert Johnson

Chapter 7

**#1.00 Pro se Reaffirmation Agreement Between Debtor and Kia Motors Finance re
2012 Kia Soul**

EH__

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Todd Robert Johnson

Represented By
Daniel King

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

10:00 AM

6:19-16613 Todd Robert Johnson

Chapter 7

#2.00 Reaffirmation Agreement Between Debtor and Harley-Davidson Credit Corp re:
2016 Harley-Davidson FLHR Road King

EH ____

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Todd Robert Johnson

Represented By
Daniel King

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

10:00 AM

6:19-16857 Thomas Craig Feeley

Chapter 7

#3.00 Reaffirmation Agreement Between Debtor and State Farm Bank, FSB re: 2008
Toyota Prius

EH ____

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Thomas Craig Feeley

Represented By
Daniel King

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

11:00 AM

6:11-12667 Maximino Romero Torres and Rebecca Anne Torres

Chapter 7

#4.00 Motion to Avoid Lien Property lien with Ford Motor Credit Company, LLC

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maximino Romero Torres

Represented By
James A Alderson

Joint Debtor(s):

Rebecca Anne Torres

Represented By
James A Alderson

Trustee(s):

Patricia J Zimmermann (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

11:00 AM

6:18-15107 Jesus Davila Romero

Chapter 7

#5.00 Trustee's Final Report and Applications for Compensation

Docket 71

Tentative Ruling:

10/9/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee and Counsel for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 3,750
Trustee Expenses: \$ 403.45

Attorney Fees: \$ 15,000
Attorney Costs: \$ 1,283.11

Tax Preparer Fee: \$1,000
Court Costs: \$350

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Jesus Davila Romero

Represented By
Leonard Pena

Trustee(s):

Todd A. Frealy (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

11:00 AM

CONT...

Jesus Davila Romero

Carmela Pagay

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

11:00 AM

6:18-20539 Jimmie Dale Montezuma and Jovita Arzate Montezuma

Chapter 7

#6.00 Motion for Order Authorizing Trustee to Operate Real Property Effective September 7, 2019

EH__

Docket 53

Tentative Ruling:

10/9/19

BACKGROUND

On December 17, 2018, Jimmie & Jovita Montezuma ("Debtors") filed a Chapter 7 voluntary petition. On Schedule A, Debtors listed certain real property located at 11488 Via Monte, Fontana, CA 92336 (the "Property"), and valued the Property at \$360,000. Schedule D listed a lien on the Property in the amount of \$354,000. Debtors lease the Property to Alex Fairchild and Angela Lugo (the "Tenants"). The Tenants currently pay \$1,624 per month.

Trustee now believes that the Property is worth significantly more than the amount listed in the schedules, and that the Property could be sold to benefit the estate. Towards that end, Trustee has employed counsel and an accountant to assist the estate.

On September 18, 2019, Trustee filed a motion for an order authorizing Trustee to operate the Property effective September 7, 2019. The Court has not received any timely opposition to the motion.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

11:00 AM

CONT... Jimmie Dale Montezuma and Jovita Arzate Montezuma

Chapter 7

DISCUSSION

11 U.S.C. § 721 states: "The court may authorize the trustee to operate the business of the debtor for a limited period, if such operation is in the best interest of the estate and consistent with the orderly liquidation of the estate." Trustee asserts that "collecting the Tenants' rent and keeping the mortgage and related expenses current [] will preserve the value of the Property pending the Trustee's marketing and sale of the same."

The Court, having reviewed the motion, service appearing proper, good cause appearing, and noting the absence of any opposition to the relief requested, is inclined to GRANT the motion, authorizing Trustee to operate the Property effective September 7, 2019.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jimmie Dale Montezuma

Represented By
Michael E Clark

Joint Debtor(s):

Jovita Arzate Montezuma

Represented By
Michael E Clark

Trustee(s):

Howard B Grobstein (TR)

Represented By
David Seror
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

11:00 AM

6:19-18038 Koppi V. Beskid

Chapter 13

#7.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 2010 Hyundai Accent

MOVANT: KOPPI V. BESKID

From: 10/1/19

EH__

Docket 15

Tentative Ruling:

10/1/2019

Service is Improper
Opposition: None

Pursuant to the self-calendaring procedures of Judge Houle, debtors who wish to have a motion to continue or impose the automatic stay heard on shortening notice are required to serve secured creditors pursuant to FED. R. BANKR. P. Rule 7004. Here, Debtor has not complied with this service requirement. Additionally, the Court notes that pages one and three of the motion, each of which prompt Debtor to identify the affected secured creditor(s), do not identify any secured creditors. Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Koppi V. Beskid

Represented By
Gregory Ashcraft

Movant(s):

Koppi V. Beskid

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

11:00 AM

CONT... Koppi V. Beskid

Gregory Ashcraft

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

11:00 AM

6:19-18105 Jason Benjamin Marlow and Linda Sue Marlow

Chapter 13

#8.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 8939 Dahlia Dr. Corona CA 92883

MOVANT: JASON BENJAMIN MARLOW AND LINDA SUE MARLOW

From: 10/1/19

EH__

Docket 20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jason Benjamin Marlow

Represented By
Julie J Villalobos

Joint Debtor(s):

Linda Sue Marlow

Represented By
Julie J Villalobos

Movant(s):

Jason Benjamin Marlow

Represented By
Julie J Villalobos

Linda Sue Marlow

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#9.00 CONT Pre-Trial Conference RE: [40] Amended Complaint (Second) by Franklin R Fraley Jr on behalf of Revere Financial Corporation against Bank of Southern California, N.A.. (RE: related document(s)1 Adversary case 6:16-ap-01199. Complaint by Revere Financial Corporation against Bank of Southern California, N.A.. (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other))

From: 8/28/19

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

2:00 PM

CONT...

Douglas Jay Roger

Carmela Pagay
Franklin R Fraley Jr

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

2:00 PM

6:17-15816 Integrated Wealth Management Inc

Chapter 11

#10.00 CONT Post Confirmation Status Conference

From: 10/23/18, 4/10/19

EH__

Docket 277

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Integrated Wealth Management Inc

Represented By
Andrew B Levin
Robert E Opera
Jim D Bauch

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

2:00 PM

6:19-11189 Mitchell C. Nelson

Chapter 7

Adv#: 6:19-01112 Bui v. Ward

#11.00 Status Conference RE: [1] Adversary case 6:19-ap-01112. Complaint by Lynda T Bui against Leonard E. Ward. (Charge To Estate - \$350.00). for: (1) Breach of Contract; (2) Breach of Oral Contract; (3) Account Stated; (4) Breach of the Implied Covenant of Good Faith and Fair Dealing; (5) Unjust Enrichment [11 U.S.C. § 105]; (6) Turnover of Property of the Estate [11 U.S.C. § 542]; and (7) Disallowance of Claims [11 U.S.C. § 502(d)] Nature of Suit: (14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Raya, Lauren)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mitchell C. Nelson

Represented By
Douglas A Plazak

Defendant(s):

Leonard E. Ward

Pro Se

Plaintiff(s):

Lynda T Bui

Represented By
Lauren E Raya

Trustee(s):

Lynda T. Bui (TR)

Represented By
Leonard M Shulman
Rika Kido

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

2:00 PM

6:18-12027 Richard M. Thomas

Chapter 7

Adv#: 6:18-01156 Anderson, Chapter 7 Trustee v. Williams et al

#12.00 Motion For Summary Judgment Against Defendant Amy Williams

EH ____

Docket 51

*** VACATED *** REASON: CONTINUED TO 1/8/20 AT 2:00 PM

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

Defendant(s):

Amy Williams

Represented By
Anerio V Altman

Richard M Thomas Jr.

Pro Se

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Frank X Ruggier

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

2:00 PM

6:18-12027 Richard M. Thomas

Chapter 7

Adv#: 6:18-01156 Anderson, Chapter 7 Trustee v. Williams et al

#13.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01156. Complaint by Karl T. Anderson, Chapter 7 Trustee against Amy Williams, Richard M Thomas Jr.. (Charge To Estate) (\$350.00). Complaint to: (1) Avoid and Recover Fraudulent Transfer; (2) Obtain Declaratory Relief as to Ownership of Real Property; and (3) Authorize Sale of Property Owned in Part by Non-Debtor Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))
(DEFAULT GRANTED AS TO SEVENTH CLAIM 4/19/19)

From: 9/26/18, 11/7/18, 12/12/18, 1/30/19, 2/27/19, 4/10/19, 9/18/19

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/8/20 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard M. Thomas

Represented By
Keith Q Nguyen

Defendant(s):

Amy Williams

Represented By
Anerio V Altman

Richard M Thomas Jr.

Pro Se

Joint Debtor(s):

Raquel Young

Represented By
Keith Q Nguyen

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 9, 2019

Hearing Room 303

2:00 PM

CONT... Richard M. Thomas

Frank X Ruggier

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Represented By
Larry D Simons
Frank X Ruggier

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 10, 2019

Hearing Room 303

11:00 AM

6:19-17992 Judy May Wells

Chapter 13

#1.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Single Family Home 1724 Beacon Court, San Jacinto, CA 92582 and 2 Cars

MOVANT: JUDY MAY WELLS

From: 10/8/19

EH__

Docket 19

Party Information

Debtor(s):

Judy May Wells

Represented By
David L Nelson

Movant(s):

Judy May Wells

Represented By
David L Nelson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 10, 2019

Hearing Room 303

11:00 AM

6:19-18002 Joseph R. Hernandez

Chapter 13

#2.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: JOSEPH HERNANDEZ

From: 10/8/19

EH__

Docket 12

Party Information

Debtor(s):

Joseph R. Hernandez

Represented By
Christopher J Langley

Movant(s):

Joseph R. Hernandez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:15-18212 Michael Joseph Slowinski

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15470 Legendary Drive, Moreno Valley, CA 92555

MOVANT: WELLS FARGO BANK, NATIONAL ASSOCIATION

From: 8/27/19, 10/1/19

EH__

Docket 83

***** VACATED *** REASON: ORDER ENTERED 10/7/19**

Tentative Ruling:

8/27/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michael Joseph Slowinski

Pro Se

Movant(s):

Wells Fargo Bank, National

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:16-15914 Maria Aurora Chaidez Grajeda

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Dodge Ram 1500 Quad Cab SLT 1C6RR6GG7HS651216

MOVANT: CONSUMER PORTFOLIO SERVICES, INC.

From: 7/30/19, 8/27/19, 9/3/19, 9/17/19

EH __

Docket 43

Tentative Ruling:

9/17/2019

Service is Proper
Opposition: Debtor

Parties to apprise the court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

7/30/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

CONT... Maria Aurora Chaidez Grajeda

Chapter 13

Party Information

Debtor(s):

Maria Aurora Chaidez Grajeda

Represented By
Nicholas Nicholas Wajda

Movant(s):

Consumer Portfolio Services, Inc.

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:16-20659 Romy Abalunan Geraldo and Bernadine Nieves Geraldo

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2767 Libra Dr., Riverside, California 92503-6018

MOVANT: NEWREZ LLC

From: 8/20/19, 9/3/19, 9/17/19

EH__

Docket 63

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the cure of the arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Romy Abalunan Geraldo

Represented By
John F Brady

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

CONT... Romy Abalunan Geraldo and Bernadine Nieves Geraldo

Chapter 13

Joint Debtor(s):

Bernadine Nieves Geraldo

Represented By
John F Brady

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:17-11010 Gary F Pico and Mercedes P. Pico

Chapter 13

#4.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 39119 Crown Ranch Road, Temecula, California 92591

MOVANT: LAKEVIEW LOAN SERVICING LLC

From: 9/17/19

EH__

Docket 41

Tentative Ruling:

9/17/2019

Service is Proper
Opposition: Debtors

Parties to apprise the court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gary F Pico

Represented By
Gregory Ashcraft

Joint Debtor(s):

Mercedes P. Pico

Represented By
Gregory Ashcraft

Movant(s):

Lakeview Loan Servicing, LLC by

Represented By
Mark S Krause

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

CONT... Gary F Pico and Mercedes P. Pico

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:17-15772 Annette Leshon Rudd

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15399 Alostia Ln., Moreno Valley, CA 92555-2909

MOVANT: WILMINGTON TRUST NATIONAL ASSOCIATION

EH__

Docket 97

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: Yes

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3 and 12. DENY alternative request under ¶ 13 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Annette Leshon Rudd

Represented By
John F Brady

Movant(s):

Wilmington Trust, National

Represented By
Sumit Bode
Robert P Zahradka
Darlene C Vigil

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

CONT... Annette Leshon Rudd

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:18-11652 Gwendolyn Priscilla Saunders

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3606 N Lily Drive, Rialto, CA 92377

MOVANT: NATIONSTAR MORTGAGE LLC

EH__

Docket 66

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: Yes

Movant to apprise the Court of the status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gwendolyn Priscilla Saunders

Represented By
Dana Travis

Movant(s):

HSBC Bank USA, National

Represented By
Armin M Kolenovic
Jamie D Hanawalt
Gilbert R Yabes
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:18-14868 Michael J Soriano

Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13700 Daimler Street, Moreno Valley, CA 92553

MOVANT: ARVEST CENTRAL MORTGAGE COMPANY

EH__

Docket 48

Tentative Ruling:

10/15/2019

Service is Proper

Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michael J Soriano

Represented By
Paul Y Lee

Movant(s):

Arvest Central Mortgage Company,

Represented By
Nichole Glowin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:18-15297 Michelle Bogdis

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 VOLKSWAGEN PASSAT 1.8T SE

MOVANT: VW CREDIT LEASING LTD

EH__

Docket 37

Tentative Ruling:

10/15/2019

Service is Proper

Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michelle Bogdis

Represented By
Paul Y Lee

Movant(s):

VW Credit Leasing, LTD.

Represented By
Kirsten Martinez

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:18-15594 Henry Hurtado, Sr.

Chapter 13

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5353 Peacock Ln, Riverside, CA 92505

MOVANT: NATIONSTAR MORTGAGE LLC

EH__

Docket 40

*** VACATED *** REASON: STIPULATED APO ORDERED ENTERED
10/9/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Henry Hurtado Sr.

Represented By
Steven A Alpert

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Kelly M Raftery

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:18-18614 Frank Thomas Scott

Chapter 13

#10.00 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Insurance proceeds

MOVANT: MERCEDES-BENZ FINANCIAL SERVICES USA LLC

CASE DISMISSED 9/19/19

EH__

Docket 54

***** VACATED *** REASON: CASE DISMISSED 9/19/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Thomas Scott

Represented By
Ramiro Flores Munoz

Movant(s):

Mercedes-Benz Financial Services

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-10047 Jose Antonio Contreras and Mayra Lorena Contreras

Chapter 13

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 53243 Champlain Street Lake Elsinore, California 92532

MOVANT: BANK OF AMERICA, N.A.

EH__

Docket 33

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose Antonio Contreras

Represented By
A Mina Tran

Joint Debtor(s):

Mayra Lorena Contreras

Represented By
A Mina Tran

Movant(s):

Bank of America, N.A.

Represented By
Anna Landa

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

**CONT... Jose Antonio Contreras and Mayra Lorena Contreras
Bonni S Mantovani**

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-11911 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 18057 Longhorn Lane, Chino Hills, CA 91709

MOVANT: U.S. BANK NA

EH__

Docket 54

***** VACATED *** REASON: STIPULATED APO ENTERED 10/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas Nicholas Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas Nicholas Wajda

Movant(s):

U.S. Bank NA, successor trustee to

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-11963 Pamela M Bradford

Chapter 13

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5744 Alexandria Avenue, Corona, CA 92880-7253

MOVANT: U.S. BANK, NATIONAL ASSOCIATION AS LEGAL TITLE TRUSTEE FOR TRUMAN 2016 SC6 TITLE TRUST

EH__

Docket 49

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: None

The Court is inclined to CONTINUE the matter for Movant to provide a supplemental opposition or update of the status of arrears, and for Movant to file an opposition if desired. The Court notes that Movant's assertion that "[t]his is no less than the 6th [b] ankruptcy case which has been filed by the Debtor, all Chapter 13 cases filed in this [d]istrict and subsequently dismissed" is incorrect. Between August 26, 2011, and June 23, 2017, Debtor was in a successful Chapter 13 case and received a discharge. To the extent that the assignor of the deed of trust did not receive monthly payments directly from Debtor, that matter could have been addressed during the pendency of that case. Additionally, the Court notes that the arrearage figures provided in the motion are inherently contradictory. The motion asserts that Debtor has missed two monthly payments post-confirmation, resulting in a delinquency in the amount of \$3,468.80. Section 12(h) of the real property declaration, however, indicates that, in the three months post-confirmation, Debtor has made one full payment and two partial payments, resulting in a deficiency of \$1,479.28 (less than one monthly payment).

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

CONT... Pamela M Bradford

Chapter 13

Debtor(s):

Pamela M Bradford

Represented By
James D. Hornbuckle

Movant(s):

U.S. BANK, NA AS LEGAL TITLE

Represented By
Diane Weifenbach

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-13292 Miguel Angel Arredondo

Chapter 7

#14.00

CONT Amended Motion (related document(s): 8 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Shirleen P. Damaske vs. Miguel Angel Arredondo, Superior Court of the State of California for the County of San Bernardino, Case Number CIVDS 1906769

MOVANT: SHIRLEEN P. DAMASKE

From: 8/20/19, 10/1/19

EH__

Docket 14

Tentative Ruling:

TENTATIVE RULING:

8/20/2019

Service: Improper

Opposition: None

The Court is inclined to CONTINUE the matter for Movant to properly serve Debtor and the Chapter 7 Trustee.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Miguel Angel Arredondo

Represented By
Daniel King

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

CONT... Miguel Angel Arredondo

Chapter 7

Movant(s):

Shirleen P Damaske

Represented By
Michael P O'Sullivan

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-14886 Amanda Marie Tucker

Chapter 7

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 HYUNDAI ELANTRA, VIN KMHDH6AE4DU006630

MOVANT: FIRST INVESTORS FINANCIAL SERVICES

EH__

Docket 20

Tentative Ruling:

10/15/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Amanda Marie Tucker

Represented By
Michael Doan

Movant(s):

First Investors Financial Services

Represented By
Jennifer H Wang
Sheryl K Ith

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

CONT... Amanda Marie Tucker

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-15236 Valinda Gail Greene

Chapter 7

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Kia Rio, VIN 3KPA24AB3JE124116

MOVANT: SCHOOLSFIRST FEDERAL CREDIT UNION

EH__

Docket 10

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief from stay pursuant to § 362(d)(2) for lack of cause shown. Specifically, the Court notes that the body of the motion [page 4] does not check the applicable box relating to § 362(d)(2). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Valinda Gail Greene

Represented By
Robert W Ripley

Movant(s):

SCHOOLSFIRST FEDERAL

Represented By
Paul V Reza

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

CONT... Valinda Gail Greene

Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-15920 Charles Oard Cheatham

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15946 Sherman Way #1, (Van Nuys Area) Los Angeles, CA 91406

MOVANT: U.S. BANK NATIONAL ASSOCIATION

CASE DISMISSED 7/23/19

EH__

Docket 12

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: None

The Bankruptcy Appellate Panel, in *In re Fjeldsted*, noted the absence of a clear standard for annulment of the automatic stay. 293 B.R. 12, 21 (B.A.P. 9th Cir. 2003) ("There is less appellate clarity, however, in enunciating a test for retroactive stay relief. Inconsistent standards have thus developed, which run the gamut from such relief being justified only in 'extreme circumstances' to giving the court 'wide latitude' to 'balance the equities' on a case-by-case basis."). The BAP's recent announcement of the standard for annulment of the automatic stay stated the following:

Determining whether cause exists to annul the stay is a case-by-case inquiry based on a balance of the equities. In conducting this inquiry the bankruptcy court, among other factors, should consider whether the creditor knew of the bankruptcy when violating the stay and whether the debtor's conduct was unreasonable, inequitable or prejudicial to the creditor.

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11:00 AM

CONT... Charles Oard Cheatham

Chapter 13

In *Fjeldsted*, we approved additional factors for consideration in assessing the equities. The twelve nonexclusive factors are: (1) number of filings; (2) whether, in a repeat filing case, the circumstances indicate an intention to delay and hinder creditors; (3) a weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser; (4) the debtor's overall good faith (totality of circumstances test); (5) whether creditors knew of stay but nonetheless took action, thus compounding the problem; (6) whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules; (7) the relative ease of restoring parties to the status quo ante; (8) the costs of annulment to debtors and creditors; (9) how quickly creditors moved for annulment, or how quickly debtor moved to set aside the sale or violative conduct; (10) whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief; (11) whether annulment of the stay will cause irreparable injury to the debtor; and (12) whether stay relief will promote judicial economy or other efficiencies. The Panel in *Fjeldsted* cautioned that the twelve factors are merely a framework for analysis and not a scorecard, and that in any given case, one factor may so outweigh the others as to be dispositive.

In re Estavan Capital LLC, 2015 WL 7758494 at *5 (B.A.P. 9th Cir. 2015) (citations and quotations omitted).

Fjeldsted cautioned that the enumerated factors are not a scorecard, but the *Fjeldsted* standard clearly weigh in favor of annulling the stay here. Specifically, as is noted by Creditor, this is the fourth filing affecting the subject real property during 2019, and all four cases were summarily dismissed, indicating an intention to delay and hinder creditors. Additionally, the Court notes that Debtor filed a skeletal petition which was subsequently dismissed for failure to comply with the Bankruptcy Code, indicating that this filing was likely not in good faith. Furthermore, the fact that Debtor received

**United States Bankruptcy Court
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11:00 AM

CONT... Charles Oard Cheatham

Chapter 13

a 5% interest in the subject real property through an unrecorded grant deed purportedly executed three days before the petition date indicates that the Debtor may not have a valid interest in the subject real property, and may not suffer any prejudice through an annulment of the automatic stay. Finally, the only creditor Debtor listed in the mailing matrix was "Community Hospital," implying that Movant did not have any notice of the bankruptcy filing prior to the foreclosure sale.

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) to the extent of ANNULING the automatic stay. GRANT relief from Rule 4001(a)(3) stay. The Court is inclined to DENY all other requests as MOOT because this case was dismissed on July 23, 2019, fifty-two days before the instant motion was filed. While Movant cites *In re Aheong*, 276 B.R. 233 (B.A.P. 9th Cir. 2002) for the proposition that the Court retains jurisdiction over motions for relief from the automatic stay after dismissal, that case considered a motion to annul the automatic stay, and the Court is not of the position that it has jurisdiction to hear prospective requests filed after the case is dismissed.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Charles Oard Cheatham	Pro Se
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Movant(s):

U.S. Bank National Association	Represented By Darlene C Vigil
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Trustee(s):

Rod Danielson (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-16777 Michael Alba

Chapter 13

#18.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Dodge Charger, VIN: 2C3CDXGJ9JH113259

MOVANT: SANTANDER CONSUMER USA INC

EH__

Docket 23

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Alba

Represented By
Laleh Ensafi

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-16854 David Perez, Jr.

Chapter 7

#19.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Dodge Charger SE Sedan 4D

MOVANT: EXETER FINANCE, LLC

EH__

Docket 9

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

David Perez Jr.

Represented By
Daniel King

Movant(s):

Exeter Finance, LLC

Represented By
Cheryl A Skigin

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-17096 Joseph F Morgano and Elizabeth A Morgano

Chapter 13

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Chrysler 200 4C

MOVANT: BRIDGECREST LLC

EH__

Docket 18

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. DENY request from § 1301(a) co-debtor stay because it does not appear that any co-debtor, as that term is used in the statute, has been served with the motion. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joseph F Morgano

Represented By
Julie J Villalobos

Joint Debtor(s):

Elizabeth A Morgano

Represented By
Julie J Villalobos

Movant(s):

Bridgecrest, LLC

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
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11:00 AM

**CONT... Joseph F Morgano and Elizabeth A Morgano
Lemuel Bryant Jaquez**

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-17109 Isaac Carreon

Chapter 7

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Toyota Camry

MOVANT: THE GOLDEN 1 CREDIT UNION

EH__

Docket 17

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Isaac Carreon

Represented By
Kevin Tang

Movant(s):

Golden 1 Credit Union

Represented By
Mirco J Haag

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-17901 Wendy Ramirez

Chapter 13

#22.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 30157 Pine Needle Rd., Sun City, CA 92585

MOVANT: WENDY RAMIREZ

EH__

Docket 11

Tentative Ruling:

10/15/2019

Service: Improper

Opposition: None

Pursuant to 11 U.S.C. § 362(c)(3)(B), a hearing on a motion to continue the automatic stay must be held and completed within thirty days of the petition date. Here, Debtor set the instant motion for hearing thirty-seven days after the petition date. Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED. Brian Soo-Hoo is directed to personally appear.

Party Information

Debtor(s):

Wendy Ramirez

Represented By
Brian J Soo-Hoo

Movant(s):

Wendy Ramirez

Represented By
Brian J Soo-Hoo
Brian J Soo-Hoo

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

11:00 AM

CONT... Wendy Ramirez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

6:19-18380 Laura Marie Beauchamp

Chapter 7

#23.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 6084 Holland Court, Corona, CA 92880

MOVANT: LAURA MARIE BEAUCHAMP

EH__

Docket 9

Tentative Ruling:

10/15/19

Service: Okay
Opposition: None

The Court having reviewed the motion, notice appearing acceptable in the circumstances, no opposition having been filed, and it appearing that Debtor has provided sufficient evidence to rebut the statutory presumption of 11 U.S.C. § 362(c) (3)(C)(II)(aa) that the case was not filed in good faith, the Court is inclined to GRANT the motion, CONTINUING the automatic stay as to Shellpoint Mortgage Servicing and Specialized Loan Servicing.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Laura Marie Beauchamp

Represented By
Ronald W Ask

Movant(s):

Laura Marie Beauchamp

Represented By
Ronald W Ask

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

11:00 AM

CONT... Laura Marie Beauchamp

Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 15, 2019

Hearing Room 303

2:00 PM

6:17-15816 Integrated Wealth Management Inc

Chapter 11

Adv#: 6:19-01100 Issa v. Delaney et al

#24.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01100 Complaint by J. Michael Issa against Ryan Delaney, John Wong, DOES 1 through 10, inclusive. (Charge To Estate)(\$350.00) for: 1) Breach of Fiduciary Duty; and Negligence [Demand for Jury Trial] Nature of Suit: (14 (Recovery of money/property - other)) (Ignatuk, Joseph)

From: 9/17/19

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Integrated Wealth Management Inc

Represented By
Andrew B Levin
Robert E Opera
Jim D Bauch

Defendant(s):

Ryan Delaney

Represented By
Paul A Reynolds

John Wong

Represented By
David P Bleistein

Plaintiff(s):

J. Michael Issa

Represented By
Joseph R Ignatuk

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 16, 2019

Hearing Room 303

11:00 AM

6:11-21328 Moses Vasi Savar and Estrella Nina Savar

Chapter 7

#1.00 CONT Motion to Avoid JUDICIAL LIEN with Pacific Labor Source, Inc.

EH__

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Moses Vasi Savar

Represented By
Chris A Mullen

Joint Debtor(s):

Estrella Nina Savar

Represented By
Chris A Mullen

Movant(s):

Moses Vasi Savar

Represented By
Chris A Mullen
Chris A Mullen

Estrella Nina Savar

Represented By
Chris A Mullen
Chris A Mullen
Chris A Mullen
Chris A Mullen
Chris A Mullen

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 16, 2019

Hearing Room 303

11:00 AM

6:17-15301 Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

#2.00 CONT Chapter 7 Trustee's Motion for Order Approving Compromise of Controversy under Rule 9019

From: 9/18/19

EH ____

Docket 24

***** VACATED *** REASON: CONTINUED TO 11/6/19 AT 2:00 PM**

Tentative Ruling:

9/18/19

BACKGROUND

On June 24, 2017, Jaspar & Brenda Stevens ("Debtors") filed a Chapter 7 voluntary petition. On October 10, 2017, Debtors received a discharge, and the case was closed the next day.

On July 24, 2019, UST filed a motion to reopen the case so that Trustee could investigate a proposed settlement of a lawsuit; the case was reopened the same day. On August 16, 2019, Trustee filed a motion to approve compromise. The compromise relates to the settlement of the state court litigation initially commenced by Debtors against Ocwen Loan Servicing, LLC. The material terms of the compromise are that Trustee shall execute a request for dismissal of the state court litigation in return for \$50,000.

On August 28, 2019, Debtors filed an opposition to the compromise motion. Debtors argue that the state court lawsuit was properly abandoned upon the conclusion of Debtors' bankruptcy case, and that, as a result, the claims are not property of the estate

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CONT... Jasper Stevens and Brenda Louise Murray Stevens Chapter 7

and cannot be compromised by Trustee. On September 10, 2019, Trustee filed a reply arguing that the state court litigation was not abandoned.

The relevant material facts are not in dispute. Debtors concede that the litigation was not disclosed on their schedules. Trustee concedes that the litigation was disclosed on the statement of financial affairs. The parties dispute revolves around the interpretation of the word "scheduled" in 11 U.S.C. § 554(c).

DISCUSSION

11 U.S.C. § 554(c) states: "Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title." "Unless the court orders otherwise, property of the estate that is not abandoned under this section and that is not administered in the case remains property of the estate." 11 U.S.C. § 554(d). 11 U.S.C. § 521(a)(1) states

- (a) The debtor shall
 - (1) file
 - (A) a list of creditors; and
 - (B) unless the court orders otherwise –
 - (i) a schedule of assets and liabilities;
 - (ii) a schedule of current income and current expenditures
 - (iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate –

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CONT... Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

(II) if not attorney is no indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition

Debtors primarily rely upon *In re Hill*, 195 B.R. 147 (Bankr. D.N.M. 1996). Trustee

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CONT... Jasper Stevens and Brenda Louise Murray Stevens Chapter 7

implicitly concedes that *In re Hill* supports Debtors' position, but Trustee argues that "*In re Hill* relied on an erroneous statutory interpretation, went against policy and authority in relieving debtors of their obligations and consequences, and was essentially disposed of on other grounds that section 554(c), and should therefore not be followed by this Court." [Dkt. No. 30, pg. 7, lines 22-24]. *In re Hill* concluded that:

The language of § 521 itself supports a broader reading of "scheduled" in § 554(c), because the paragraph which follows paragraph § 521(1) makes a particular reference to "debtor's schedule of assets and liabilities." The use of this specific reference strongly suggests that the drafts of the Code will say "schedule of assets and liabilities" when that narrow requirement is intended, and that a reference to § 521(1) is a reference to § 521(1) as a whole.

Id. at 150; *see also U.S. ex rel. Fortenberry v. Holloway Group, Inc.*, 515 B.R. 827 (W.D. Okla. 2014) ("In other words the Court finds that the 'scheduled' requirement in § 554(c) refers to all of the disclosures required in § 521(a)(1), including the debtor's statement of financial affairs.").

On the other hand, Trustee points to multiple cases from the Bankruptcy Appellate Panel which held that "[m]entioning an asset in the statement of financial affairs is not the same as scheduling it for purposes of abandonment under § 554(c)." *In re Pretscher-Johnson*, 2017 WL 2779977 at *5 (B.A.P. 9th Cir. 2017); *In re Kayne*, 453 B.R. 372 (B.A.P. 9th Cir. 2011) (same); *see also In re Fossey*, 119 B.R. 268 (D. Utah 1990) ("The case have held that the word 'scheduled' in § 554(c) refers to property listed in the debtor's Schedule of Assets and Liabilities."). While Debtor has provided a recent Bankruptcy Appellate Panel case which seems to backtrack from the Panel's earlier position to a degree, as noted by Trustee, the reasoning in *In re Tadayon*, 2019 WL 1923044 (B.A.P. 9th Cir. 2019) is less than clear, bordering on bizarre.

Noting that the majority of the caselaw on this issue favors the position of the Trustee, the Court is inclined to conclude that the listing of the pending lawsuit in the statement of financial affairs is inadequate to trigger a technical

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CONT... Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

abandonment of that asset pursuant to 11 U.S.C. § 554(c). While the Court acknowledges that the drafting of § 554(c) is somewhat ambiguous given that the statute could refer to § 521(a)(1)(B)(i), instead of § 521(a)(1) generally, the use of the word "scheduled" must be interpreted in relation to the preparation of "schedules." Divorcing the verb "scheduled" from the noun "schedules" does not appear to be a reasonable approach to statutory interpretation, especially considering that in other sections, the Code includes the phrase "neither listed nor scheduled under section 521(a)(1)." 11 U.S.C. § 523(a)(3).

Turning to the compromise motion, FED. R. BANKR. P. Rule 9019 provides that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

The Ninth Circuit Court of Appeals have previously outlined the factors to be considered in approving a compromise pursuant to Rule 9019: (1) the probability of success in the litigation; (2) the difficulties to be encountered in the matter of collection; (3) the complexity, expense, inconvenience and delay of litigation; and (4) the interest of creditors with deference to their reasonable views. *See In re A&C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). The listed factors assist the Court in determining "the fairness, reasonableness and adequacy of a proposed settlement agreement." *Id.*

Here, the evidence before the Court is insufficient to assess the "fairness, reasonableness and adequacy" of the compromise. Specifically, the Court notes that the compromise motion does not include any meaningful detail regarding the nature of the state court litigation to be compromise, nor does the motion contain any description of the amount of damages sought in state court. Because of this absence of information, the Court is wholly unable to assess the reasonableness of the \$50,000 to be received by the bankruptcy estate.

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CONT... Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

TENTATIVE RULING

The Court is inclined to CONTINUE the matter for supplemental evidence as to the *A&C Properties* elements.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jasper Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Joint Debtor(s):

Brenda Louise Murray Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Movant(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

**United States Bankruptcy Court
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Wednesday, October 16, 2019

Hearing Room 303

11:00 AM

6:19-14564 Cesar Hernandez Vazquez and Mirna Gomez

Chapter 7

#3.00 Motion of Chapter 7 Trustee to Dismiss Case and Vacate Discharge if Previously Entered **(As to Co-Debtor, Only)**

EH ____

Docket 18

Tentative Ruling:

10/16/19

BACKGROUND

On May 28, 2019, Cesar Hernandez Vazquez and Mirna Gomez (collectively "Debtors"; individually, "Cesar" and "Mirna") filed a Chapter 7 voluntary petition. On September 6, 2019, the Trustee filed a motion to dismiss the case and vacate the discharge if previously entered only to the Co-Debtor, Mirna. Discharged was entered on September 9, 2019.

DISCUSSION

I. Dismissal

"Non-married co-residents may not file a joint petition pursuant to §302(a) ...Courts interpret [§302(a)'s definition of spouse] as applicable to only those couples that are legally married." In re Lucero, 408 B.R. 348, 350 (Bankr. C.D. Cal. 2009).

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CONT... Cesar Hernandez Vazquez and Mirna Gomez

Chapter 7

Courts addressing erroneous joint petition by non-spouses have given debtors the option of dismissing one party in the joint petition or facing dismissal of the entire case. *Id.*; *In re Lam*, 98 B.R. 965 (Bankr. W.D. Mo. 1988) (allowing a mother and daughter filing a joint petition thirty days to remove one party from the case or face dismissal.); *In re Malone*, 59 B.R. 2 (E.D. Mich. 1985)(allowing a same-sex, unmarried couple twenty days to dismiss one of the co-debtors or faced dismissal of the entire case.)

II. Vacation of Discharge

Here, where dismissal of the case is appropriate, logic dictates that a prerequisite to such dismissal is a vacation of the discharge. The standard approach when a trustee has not been able to determine whether an objection to discharge is warranted (by the applicable deadline) is for the Trustee to file a motion requesting an extension of that deadline pursuant to FED. R. BANKR. P. Rule 4004(b).

Trustee did not file such an extension here. Therefore, instead of filing an objection to discharge, Trustee would need to revoke the discharge already entered. A request to revoke a discharge requires an adversary proceeding pursuant to FED. R. BANKR. P. Rule 7001(4). *See In re Lokay*, 269 B.R. 132, 138 (Bankr. W.D. Pa. 2001) ("proceeding to revoke a discharge must be brought as an adversary action."); *In re Barr*, 183 B.R. 531, 536 (Bankr. N.D. Ill. 1995) ("discharge can be revoked only by way of an Adversary proceeding brought pursuant to FED. R. BANKR. P. Rule 7001(4) and U.S.C. § 727(d)."); *see also* 10 COLLIER'S ON BANKRUPTCY ¶ 7001.01 (16th ed. 2018) ("failing to commence an adversary proceeding when seeking the relief of the kind listed in Rule 7001 has resulted in denial of the motion or dismissal of the proceeding."). While, in certain circumstances, it may be appropriate to waive the requirement of an adversary proceeding, those cases fall into two categories – absence of prejudice to the affected parties or explicit or implicit waiver of the requirement. *See Id.* Here, Movant has provided that the affected Debtor consented to dismissal, and no opposition has been filed.

Given the foregoing, the court will also vacate entry of discharge as to Mirna Gomez although it appears the discharge did not apply to her.

APPEARANCES REQUIRED.

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CONT... Cesar Hernandez Vazquez and Mirna Gomez

Chapter 7

Party Information

Debtor(s):

Cesar Hernandez Vazquez Pro Se

Joint Debtor(s):

Mirna Gomez Pro Se

Movant(s):

Robert Whitmore (TR) Pro Se

Trustee(s):

Robert Whitmore (TR) Pro Se

**United States Bankruptcy Court
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Wednesday, October 16, 2019

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11:00 AM

6:12-23460 Jenny Luz Andrino

Chapter 7

#4.00 Order to show cause why Priscilla Solario should not be sanctioned

Also #4 - #6

EH__

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jenny Luz Andrino

Represented By
Julieann Sayegh Farraj
Priscilla C Solario

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, October 16, 2019

Hearing Room 303

11:00 AM

6:12-23460 Jenny Luz Andrino

Chapter 7

#5.00 CONT Debtor's Motion to Avoid Lien under 11 U.S.C. Section 522(f) with American Express Bank, FSB

From: 9/18/19

Also #4 - #6

EH ____

Docket 39

Tentative Ruling:

9/18/2019

Service: Proper

Opposition: None

On May 31, 2012, Jenny Andrino ("Debtor") filed a Chapter 7 voluntary petition. On September 10, 2012, Debtor received a Chapter 7 discharge, and eight days later the case was closed.

On February 8, 2019, the case was reopened for Debtor to file motions to avoid judgment liens. No action was timely taken by Debtor, however, and the case was closed on April 10, 2019. On July 19, 2019, the case was reopened a second time for Debtor to file motions to avoid judgment liens. On July 22, 2019, Debtor amended certain schedules, including Schedule C. The Court notes that this amendment appears to be improper pursuant to FED. R. BANKR. P. Rules 1009(a) and 9006(b)(1). Nevertheless, 11 U.S.C. § 522(f)(1) refers to an exemption "to which the debtor would have been entitled," and does not seem to impose a requirement that the exemption be

**United States Bankruptcy Court
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CONT... **Jenny Luz Andrino**
properly claimed.

Chapter 7

On July 30, 2019, Debtor filed two motions to avoid lien affecting American Express Bank FSP and Citibank (South Dakota) N.A., These motions were subsequently amended on August 1, 2019, and August 12, 2019. On September 3, 2019, the Court set the matters for hearing.

The Court notes that the evidence of the fair market value of the subject real property consists of a Broker's Opinion that is "as of" May 9, 2019. The proper date for determining the value of the subject real property is, however, the petition date. *See, e.g., In re Vokac*, 273 B.R. 553 (Bankr. N.D. Ill. 2002); *In re Abrahamzadeh*, 162 B.R. 676 (Bankr. D.N.J. 1994); *In re Finn*, 151 B.R. 25 (Bankr. N.D.N.Y. 1992); *In re Sanglier*, 124 B.R. 511 (Bankr. E.D. Mich. 1991); *In re Truan*, 121 B.R. 9 (Bankr. S.D. Tex. 1990) ("The appropriate time focus for valuation of Debtors' equity for a Section 522(f) lien avoidance proceeding is the date on which the petition was filed.").

The Court is inclined to CONTINUE the matter for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jenny Luz Andrino

Represented By
Julieann Sayegh Farraj
Priscilla C Solario

Movant(s):

Jenny Luz Andrino

Represented By
Julieann Sayegh Farraj

**United States Bankruptcy Court
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CONT... Jenny Luz Andrino

Chapter 7

Julieann Sayegh Farraj
Priscilla C Solario
Priscilla C Solario

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:12-23460 Jenny Luz Andrino

Chapter 7

#6.00 CONT Debtor's Motion to Avoid Lien under 11 U.S.C. Section 522(f) with Citibank (South Dakota) N.A.

From: 9/18/19

Also #4 - #5

EH ____

Docket 40

Tentative Ruling:

9/18/2019

Service: Proper

Opposition: None

On May 31, 2012, Jenny Andrino ("Debtor") filed a Chapter 7 voluntary petition. On September 10, 2012, Debtor received a Chapter 7 discharge, and eight days later the case was closed.

On February 8, 2019, the case was reopened for Debtor to file motions to avoid judgment liens. No action was timely taken by Debtor, however, and the case was closed on April 10, 2019. On July 19, 2019, the case was reopened a second time for Debtor to file motions to avoid judgment liens. On July 22, 2019, Debtor amended certain schedules, including Schedule C. The Court notes that this amendment appears to be improper pursuant to FED. R. BANKR. P. Rules 1009(a) and 9006(b)(1). Nevertheless, 11 U.S.C. § 522(f)(1) refers to an exemption "to which the debtor would have been entitled," and does not seem to impose a requirement that the exemption be

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CONT... **Jenny Luz Andrino**
properly claimed.

Chapter 7

On July 30, 2019, Debtor filed two motions to avoid lien affecting American Express Bank FSP and Citibank (South Dakota) N.A., These motions were subsequently amended on August 1, 2019, and August 12, 2019. On September 3, 2019, the Court set the matters for hearing.

The Court notes that the evidence of the fair market value of the subject real property consists of a Broker's Opinion that is "as of" May 9, 2019. The proper date for determining the value of the subject real property is, however, the petition date. *See, e.g., In re Vokac*, 273 B.R. 553 (Bankr. N.D. Ill. 2002); *In re Abrahamzadeh*, 162 B.R. 676 (Bankr. D.N.J. 1994); *In re Finn*, 151 B.R. 25 (Bankr. N.D.N.Y. 1992); *In re Sanglier*, 124 B.R. 511 (Bankr. E.D. Mich. 1991); *In re Truan*, 121 B.R. 9 (Bankr. S.D. Tex. 1990) ("The appropriate time focus for valuation of Debtors' equity for a Section 522(f) lien avoidance proceeding is the date on which the petition was filed.").

The Court is inclined to CONTINUE the matter for supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jenny Luz Andrino

Represented By
Julieann Sayegh Farraj
Priscilla C Solario

Movant(s):

Jenny Luz Andrino

Represented By
Julieann Sayegh Farraj

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CONT... Jenny Luz Andrino

Chapter 7

Julieann Sayegh Farraj
Priscilla C Solario
Priscilla C Solario

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, October 16, 2019

Hearing Room 303

11:00 AM

6:17-15809 Beatrice A Diaz

Chapter 7

#6.10 Motion for Order: (1) Authorizing Sale of Estates Right, Title and Interest in Real Property Free and Clear of Liens; (2) Approving Payment of Real Estate Brokers Commissions; and (3) Finding Purchaser is a Good Faith Purchaser

EH ____

Docket 93

Tentative Ruling:

10/10/19

BACKGROUND

On July 12, 2017, Beatrice Diaz ("Debtor") filed a Chapter 7 voluntary petition. Among the scheduled assets was certain real property located at 619 Calle Cuesta, Watsonville, CA 95076 (the "Property").

On December 20, 2017, Trustee filed a complaint against Debtor's non-filing spouse, Jose Diaz ("Defendant"), seeking: (1) a declaration that the Property constituted community property; (2) turnover of the Property; and (3) authority to sell Defendant's interest in the Property. After Defendant failed to respond to the adversary complaint, Trustee moved for default. On May 22, 2018, the Court entered judgment adjudicating the Property to be community property and directing Defendant to turn over the property.

In January 2019, the Court entered two orders related to Trustee's efforts to gain control over the Property. First, in the adversary proceeding, the Court granted Trustee's motion for a writ of possession as to Defendant. Second, in the main bankruptcy case, the Court granted Trustee's motion for turnover as to Debtor.

On July 10, 2019, Trustee filed a motion seeking to establish procedures for the sale of the Property. Part of the reason for the filing of the instant motion is that the Property is subject to the Measure J Affordable Housing Program, which imposes a ceiling of \$363,798 on the Property's purchase price. Because the sale price of the Property is essentially fixed by a county voter initiative, the Trustee proposes a unique

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CONT... Beatrice A Diaz

Chapter 7

sale process which involves working with the county to post the listing, screen applicants, and then, ostensibly, randomly rank qualified bidders.

On July 30, 2019, the Court granted the motion for the Trustee to establish procedures for the sale of the property. In granting the motion, the Court authorize the Trustee to serve such proposed sale motion on not less than seven-day notice to all parties.

On October 9, 2019, the Trustee filed this motion to authorize the sale of the Property free and clear of liens, approve payment of the real estate broker's commission, and find the purchaser of good faith. The Trustee was able to find purchasers of the Property. The purchasers are Octavio Diaz Alvarez, Marta Diaz, and Josue Diaz (collectively, the "Purchasers").

There appears to be two issues that the Trustee needs to address:

1. How did Measure J process work? Did the County unilaterally pick the purchasers, or was the Trustee involved?

2. Based on how Measure J process worked, why should the broker be entitled to a commission?

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Beatrice A Diaz

Pro Se

Trustee(s):

Arturo Cisneros (TR)

Represented By
Todd A Frealy
Anthony A Friedman

**United States Bankruptcy Court
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Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:17-01085 PRINGLE v. Winn et al

#7.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01085. Complaint by JOHN P PRINGLE against Ralph Winn. (Charge To Estate - \$350.00). and other Defendants including DOES 1-25 Nature of Suit: 12 - Recovery of money/property - 547 preference, 13-Recovery of money/property - 548 fraudulent transfer, 21-Validity, priority or extent of lien or other interest in property, 14 - Recovery of money/property - other, 91- Declaratory judgment)

From: 7/12/17, 8/23/17, 10/25/17, 5/16/18, 6/27/18, 9/26/18, 1/23/19, 3/27/19, 6/26/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/15/20 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

Ralph Winn

Represented By
Douglas A Plazak

Sterling Security Service, Inc.

Represented By
Seth W Wiener

Natalia V Knoch

Represented By
Seth W Wiener

Steven B Knoch

Represented By
Seth W Wiener

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CONT... Home Security Stores, Inc.
Stacy Winn

Chapter 7

Represented By
Douglas A Plazak

Plaintiff(s):

JOHN P PRINGLE

Represented By
Charity J Manee
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

**United States Bankruptcy Court
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Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#8.00 CONT Motion RE: Objection to Claim Number 11 by Claimant Natasha Reynoso and Mark Reynoso

HOLDING DATE

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18, 2/6/19, 4/17/19, 8/21/19

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Movant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#9.00 CONT Status Conference RE: [13] Amended Complaint by Michael J Hemming on behalf of Mark & Natasha Reynoso against Anne Louise Goodman, Douglas Edward Goodman. (RE: related document(s)1 Adversary case 6:16-ap-01277. Complaint by Mark & Natasha Reynoso against Douglas Edward Goodman, Anne Louise Goodman. false pretenses, false representation, actual fraud) filed by Plaintiff Mark & Natasha Reynoso)
(Holding Date)

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18, 2/6/19, 4/17/19, 8/21/19

Also #10

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, October 16, 2019

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2:00 PM

CONT... Douglas Edward Goodman

Edward T Weber

Chapter 13

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#10.00 CONT Status Conference RE: [139] Crossclaim by Anne Louise Goodman, Douglas Edward Goodman against Theresa Mann, Jose Pastora (Weber, Edward)

From: 8/21/19

Also #9

EH__

Docket 139

*** VACATED *** REASON: CROSS COMPLAINT DISMISSED PER ORDER ENTERED 9/3/2019

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Plaintiff(s):

Mark & Natasha Reynoso

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, October 16, 2019

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2:00 PM

CONT... Douglas Edward Goodman

Michael J Hemming

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:17-17749 Joshua Cord Richardson

Chapter 7

Adv#: 6:19-01114 Sonnenfeld v. Diaz et al

#11.00 Status Conference RE: [1] Adversary case 6:19-ap-01114. Complaint by Cleo Sonnenfeld against Gabriela Nieto Diaz, Laguna Motors, Inc.. Recovery, and Preservation of Preferential Transfer; (2) Avoidance, Recovery, and Preservation of Constructive Fraudulent Transfer; and (3) Avoidance, Recovery, and Preservation of Actual Fraudulent Transfer [11 U.S.C. Sections 544, 547, 548, 550 and 551; Cal. Civ. Code Sections 3439.04, 3439.05] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (14 (Recovery of money/property - other)),(12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Hays, D)

ALIAS SUMMONS ISSUED 9/6/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Defendant(s):

Gabriela Nieto Diaz

Pro Se

Laguna Motors, Inc.

Pro Se

Plaintiff(s):

Cleo Sonnenfeld

Represented By
Laila Masud
D Edward Hays

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, October 16, 2019

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2:00 PM

CONT... Joshua Cord Richardson

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01100 Zamucen & Curren LLP v. Johnson

#12.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01100. Complaint by Zamucen & Curren LLP against Vance Zachary Johnson . (d),(e))

From: 7/31/18, 10/3/18, 1/9/19, 1/30/19, 2/27/19, 7/3/19, 7/17/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Zamucen & Curren LLP

Represented By
Patricia J Grace

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:18-13057 Desert Ice Castle, LLC

Chapter 7

Adv#: 6:19-01025 Steven M. Speier, as chapter 7 trustee v. Liu

#13.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01025. Complaint by Steven M. Speier, as chapter 7 trustee against Anthony Liu. (Charge To Estate - \$350.00). with Summons and Adversary Cover Sheet Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(72 (Injunctive relief - other)) (Goe, Robert)

From: 3/27/19, 6/26/19

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 10/2/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Desert Ice Castle, LLC

Represented By
Paul M Stoddard

Defendant(s):

Anthony Liu

Pro Se

Plaintiff(s):

Steven M. Speier, as chapter 7

Represented By
Ryan S Riddles
Robert P Goe

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:18-16831 Young Jin Yoon

Chapter 7

Adv#: 6:18-01210 Kim v. Yoon et al

#14.00 CONT Status Conference Re: [1] Adversary case 6:18-ap-01210. Complaint by Vivian Kim against Young Jin Yoon, Hyunmyung Park, Joshua Park. false pretenses, false representation, actual fraud, 72 - Injunctive relief - other, 13 - Recovery of money/property - 548 fraudulent transfer, 68 - Dischargeability - 523(a)(6), willful and malicious injury

From: 1/9/19, 7/31/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Young Jin Yoon

Represented By
Ji Yoon Kim

Defendant(s):

Young Jin Yoon

Represented By
Ji Yoon Kim

Hyun Myung Park

Represented By
Ji Yoon Kim

Joshua Park

Represented By
Ji Yoon Kim

Plaintiff(s):

Vivian Kim

Represented By
Jiyoung Kym

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, October 16, 2019

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2:00 PM

CONT... Young Jin Yoon

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:18-17177 Julie Lynn Salazar

Chapter 7

#15.00 CONT Chapter 7 Trustee's Motion for Order: (1) Establishing Conditions and Procedures for Dismissal of Case Under 11 U.S.C. Section 707(a); and (2) Approving Payment of Creditor Claims and Administrative Fees
(Only as to Commission)

From: 6/5/19, 8/28/19, 9/18/19

Also #16

EH__

Docket 67

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
Riverside
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Wednesday, October 16, 2019

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2:00 PM

6:18-17177 Julie Lynn Salazar

Chapter 7

#16.00 CONT Motion for Objection to Claim of Exemptions by Debtor, Julie Lynn Salazar
(HOLDING DATE)

From: 1/16/19, 1/30/19, 4/10/19, 5/29/19, 6/5/19, 8/28/19, 9/18/19

Also #15

EH__

Docket 30

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Movant(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack
Tinho Mang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:18-17177 Julie Lynn Salazar

Chapter 7

Adv#: 6:18-01231 Winegardner Masonry, Inc. v. Salazar

#17.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01231. Complaint by Winegardner Masonry, Inc. against Julie Lynn Salazar. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(41 (Objection / revocation of discharge - 727(c),(d),(e)))
(Holding Date)

From: 1/30/19, 4/10/19, 9/18/19

EH__

Docket 1

***** VACATED *** REASON: ORDER DISMISSING ADVERSARY
9/30/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Defendant(s):

Julie Lynn Salazar

Represented By
Jenny L Doling

Plaintiff(s):

Winegardner Masonry, Inc.

Represented By
William A Smelko

Trustee(s):

Karl T Anderson (TR)

Represented By
Richard A Marshack

**United States Bankruptcy Court
Central District of California
Riverside
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2:00 PM

CONT...

Julie Lynn Salazar

Tinho Mang

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 16, 2019

Hearing Room 303

2:00 PM

6:19-14650 Blanca Flor Torres

Chapter 7

Adv#: 6:19-01117 Whitmore v. Gularte et al

#18.00 Status Conference RE: [1] Adversary case 6:19-ap-01117. Complaint by Robert S. Whitmore against Jose Gularte, Marjorie Elizabeth Gularte-Torres. (Charge To Estate \$350.00). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Philippi, Julie)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Blanca Flor Torres

Represented By
Brian J Horan

Defendant(s):

Jose Gularte

Pro Se

Marjorie Elizabeth Gularte-Torres

Pro Se

Plaintiff(s):

Robert S. Whitmore

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

**United States Bankruptcy Court
Central District of California
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Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:10-20626 Irma Cantu

Chapter 13

Adv#: 6:17-01057 Cantu v. Ocwen Loan Servicing, LLC et al

#1.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01057. Complaint by Irma Cantu against Ocwen Loan Servicing, LLC. (Fee Not Required). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(65 (Dischargeability - other)),(72 (Injunctive relief - other)) (Cravens, Leonard)

From: 11/15/18, 6/6/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Irma Cantu

Represented By
Leonard J Cravens

Defendant(s):

Ocwen Loan Servicing, LLC

Represented By
Adam N Barasch

Ocwen Loan Servicing, LLC

Represented By
Adam N Barasch

Plaintiff(s):

Irma Cantu

Represented By
Leonard J Cravens

Trustee(s):

Rod (MJ) Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:17-12149 Irma Dalia Cantu

Chapter 13

#2.00 CONT Debtor's Motion for Order Disallowing Claim no 1-1 filed by Ocwen Loan Servicing, LLC
(HOLDING DATE)

From: 6/4/18, 8/30/18, 11/15/18, 6/6/19

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Irma Dalia Cantu

Represented By
Leonard J Cravens

Movant(s):

Irma Dalia Cantu

Represented By
Leonard J Cravens
Leonard J Cravens

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:17-12232 Margarito Martinez

Chapter 13

Adv#: 6:19-01051 Martinez v. Garza et al

#3.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01051. Complaint by Margarito Martinez against Cesar Emilo Garza, Noe Pelayo, George Arthur Macias, Flor Valladares, Henry Gonzalez, West Coast Realty, Inc., Grand Capital Group, M&M Associates. (Charge To Estate - \$350.00). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)))

From: 5/23/19, 8/22/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Margarito Martinez

Represented By

Christopher J Langley

Defendant(s):

Cesar Garza

Pro Se

Noe Pelayo

Pro Se

George Arthur Macias

Pro Se

Flor Valladares

Pro Se

Henry Gonzalez

Pro Se

West Coast Plus Realty, Inc.

Pro Se

Grand Capital Group

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 17, 2019

Hearing Room 303

11:00 AM

CONT... Margarito Martinez
M&M Associates

Pro Se

Chapter 13

Plaintiff(s):

Margarito Martinez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:17-19790 Angel Rodriguez

Chapter 13

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

EH__

Docket 46

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angel Rodriguez

Represented By
Nancy Korompis

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:17-20318 Lynette Kathryn Beaver

Chapter 13

#5.00 Motion to vacate dismissal

EH ____

Docket 76

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lynette Kathryn Beaver

Represented By
Anerio V Altman

Movant(s):

Lynette Kathryn Beaver

Represented By
Anerio V Altman
Anerio V Altman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#6.00 CONT Motion to Disallow Claim No. 3 filed by Lake Hills Maintenance Corporation

From: 9/19/19

Also #7 & #8

EH__

Docket 51

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Movant(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#7.00 CONT Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments

From: 9/19/19

Also #6 & #8

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Movant(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#8.00 CONT Trustee's Motion to Dismiss Case

From: 9/5/19, 10/3/19

Also #6 & #7

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:18-15343 Jennifer Isabella Solares

Chapter 13

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

Also #10

EH__

Docket 46

***** VACATED *** REASON: ORDER ENTERED 10/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Isabella Solares

Represented By
Rabin J Pournazarian

Movant(s):

Jennifer Isabella Solares

Represented By
Rabin J Pournazarian
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:18-15343 Jennifer Isabella Solares

Chapter 13

#10.00 CONT Trustee's Motion to Dismiss Case

From: 8/22/19, 9/5/19, 10/3/19

Also #9

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Isabella Solares

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-10415 Lewis K. Chism and Latoya A. Chism

Chapter 13

#11.00 Motion to Disallow Claims re Moreno Valley Ranch Community Association

Also #12

EH__

Docket 46

Tentative Ruling:

10/17/19

BACKGROUND:

On January 17, 2019, Lewis K. Chism and Latoya A. Chism (collectively, the "Debtors") filed a Chapter 13 voluntary petition. On May 2, 2019, Debtors' Chapter 13 plan was confirmed.

On February 4, 2019, Moreno Valley Ranch Community Association ("Association") filed a proof of claim in the amount of \$24,224.42 ("Claim 3"). The Association alleges all the amount is secured by the debtors' principal residence, 26818 Calle Luna, Moreno Valley, California 92555; and it is entitled to twelve percent (12.00%) interest rate on the claim. Debtor contends that the claim should be disallowed because (1) it is not legally supported and is lacking evidentiary support; (2) lacks proper notice; or in the alternative, (3) the claim should be secured in the amount of \$17,879.31 with a ten percent (10.00%) interest rate and an unsecured claim of \$6,345.11.

On the other hand, the Association claims that collateral estoppel prevents Debtors from relitigating this issue. On June 29, 2011, the Superior Court awarded the Association a judgment for foreclosure and money against the Debtors for the amounts owed from March 31, 2009 to April 1, 2011 ("Judgment I"). On February 15, 2017, the Superior Court awarded the Association, a second time, a judgment for foreclosure and money against the Debtors for the amounts owed from April 30, 2011 to December 13, 2016 ("Judgment II"). At both times, the Association argues that the

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CONT... **Lewis K. Chism and Latoya A. Chism**

Chapter 13

Superior Court found that the lien met all the statutory requirement, the lien is valid, and is fully secured. In addition, the Association argues that twelve percent interest rate is the statutory amount that the association is entitled to.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014, and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

"In determining the collateral estoppel of a state court judgment, federal courts must, as a matter of full faith and credit, apply the state's law of collateral estoppel." *In Bugna*, 33 F.3d 1054, 1057 (9th Cir. 1994). Under California law, collateral estoppel applies when (1) the issue is identical to that in the prior case; (2) the issue was actually litigated; (3) the issue was necessarily decided; (4) the decision was final

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CONT... **Lewis K. Chism and Latoya A. Chism**

Chapter 13

and on the merits, and (5) the party sought to be bound by the prior proceeding was the same or privity with the party in the former proceeding. *Lucido v. Superior Court*, 51 Cal. 3d 335, 341 (Cal. 1990).

California Civil Procedure §685.010(a):

"Interest accrues at the rate of 10 percent annum on the principal amount of a *money judgment* remaining unsatisfied." (Italics added for emphasis)

California Civil Code §5650(b)(3):

"Interest on all sums imposed in accordance with this section [assessment debt and delinquency], including the delinquent assessments, reasonable fees and costs of collection, and reasonable attorney's fees, at an annual interest rate not to exceed 12 percent, commencing thirty days after the assessment becomes due, unless the declaration specifies the recovery of interest at a rate of a lesser amount, in which case the lesser rate of interest shall apply."

ANALYSIS:

Debtors, perplexingly, admit that there were two judgments awarded to the Association, but assert that the claims were truly never created. For the Superior Court to rule in favor of the Association, the court necessarily determined that the lien was valid. Furthermore, Debtors were the named defendants in Judgment I and Judgment II, the Superior Court made a final ruling on the merits in both cases, and the issue was necessarily decided. All elements of collateral estoppel have been satisfied by the Association.

The Court further adopts the Association's analysis regarding the applicable interest rate.

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11:00 AM

CONT... Lewis K. Chism and Latoya A. Chism

Chapter 13

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPERANCES REQUIRED.

Party Information

Debtor(s):

Lewis K. Chism

Represented By
Christopher J Langley

Joint Debtor(s):

Latoya A. Chism

Represented By
Christopher J Langley

Movant(s):

Lewis K. Chism

Represented By
Christopher J Langley

Latoya A. Chism

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-10415 Lewis K. Chism and Latoya A. Chism

Chapter 13

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

Also #11

EH__

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lewis K. Chism

Represented By
Christopher J Langley

Joint Debtor(s):

Latoya A. Chism

Represented By
Christopher J Langley

Movant(s):

Lewis K. Chism

Represented By
Christopher J Langley

Latoya A. Chism

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-11710 Heather Ann Pessoa Bond

Chapter 13

#13.00 Motion RE: Objection to Claim Number 4 by Claimant American Express National Bank

Also #14 & #15

EH__

Docket 53

Tentative Ruling:

10/17/19

BACKGROUND:

On March 4, 2019, Heather Ann Pessoa Bond ("Debtor") filed a Chapter 13 voluntary petition. On June 13, 2019, Debtor's Chapter 13 plan was confirmed.

On April 22, 2019, American Express National Bank ("American Express") filed a proof of claim in the amount of \$14,124.12 ("Claim 4-1"). On April 24, 2019, American Express filed another proof of claim in the amount of \$33,018.23 ("Claim 5-1").

Debtor claims that Claim 4-1 and Claim 5-1 were for contractual obligations made in writing and are subject to the four-year statute of limitations proscribed by California Code of Civil Procedure §337. Debtor alleges that more than four years have passed since the Debtor made payments to either claims. (See Dkt. No 53, Ex. A, Pg 6; Dkt. No 55, Ex. A, Pg 5). Thus, both claims should be disallowed. American Express has not filed an opposition to Debtor's motions to disallow Claim 4-1 and 5-1.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

CONT... **Heather Ann Pessoa Bond**

Chapter 13

Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014, and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

California Civil Code §377:

"Within four years... (b) an action to recover...(3) a balance due upon a mutual, open and current account, the items of which are in writing...that...if an account stated is based upon an account of more than one item, the time shall begin to run from the date of the last item...(d) when the period in which an action must be commenced under this section has run, a person shall not bring suit or initiate an arbitration or other legal proceedings to collect the debt."

ANALYSIS:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

CONT... Heather Ann Pessoa Bond

Chapter 13

Debtor acknowledges the fact that she failed to pay for transactions made on her account. The last payment made the account associated with Claim 4-1 was on October 2009, and the last payment made to the account associated with Claim 5-1 was on April 2008. (See Dkt. No 53, Ex. A, Pg 6; Dkt. No 55, Ex. A, Pg 5). Debtor's failure to make any payments to these accounts is construed as a breach of her contract. *Professional Collection Consultants v. Lauron*, 8 Cal. App 5th, 958, 966 (Cal. Dist. Ct. App. 2017).

The action to recover on an account accrues on the date of the last entry in the accounts. The last transaction entered into the account associated with Claim 4-1 was on June 2006. Likewise, the last transaction entered into the account associated with Claim 5-1 was on June 2006. Thus, the four-year statute of limitation has expired to initiate any legal proceedings to collect these debts.

The Court has noted that Debtor had a prior Chapter 13 (Case No. 18-12899) filing that was dismissed. Even when considering the toll affect of the prior Chapter 13, American Express is outside the four-year limitation.

TENTATIVE RULING

The Court is inclined to GRANT the motion, disallowing Claims 4-1 and 5-1 in their entirety.

APPERANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

CONT... Heather Ann Pessoa Bond

Chapter 13

Movant(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-11710 Heather Ann Pessoa Bond

Chapter 13

#14.00 Motion RE: Objection to Claim Number 5 by Claimant American Express National Bank

Also #13 & #15

EH__

Docket 55

Tentative Ruling:

10/17/19

BACKGROUND:

On March 4, 2019, Heather Ann Pessoa Bond ("Debtor") filed a Chapter 13 voluntary petition. On June 13, 2019, Debtor's Chapter 13 plan was confirmed.

On April 22, 2019, American Express National Bank ("American Express") filed a proof of claim in the amount of \$14,124.12 ("Claim 4-1"). On April 24, 2019, American Express filed another proof of claim in the amount of \$33,018.23 ("Claim 5-1").

Debtor claims that Claim 4-1 and Claim 5-1 were for contractual obligations made in writing and are subject to the four-year statute of limitations proscribed by California Code of Civil Procedure §337. Debtor alleges that more than four years have passed since the Debtor made payments to either claims. (See Dkt. No 53, Ex. A, Pg 6; Dkt. No 55, Ex. A, Pg 5). Thus, both claims should be disallowed. American Express has not filed an opposition to Debtor's motions to disallow Claim 4-1 and 5-1.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

CONT... **Heather Ann Pessoa Bond**

Chapter 13

Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014, and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; see also *Holm*, 931 F.2d at 623.

California Civil Code §377:

"Within four years... (b) an action to recover...(3) a balance due upon a mutual, open and current account, the items of which are in writing...that...if an account stated is based upon an account of more than one item, the time shall begin to run from the date of the last item...(d) when the period in which an action must be commenced under this section has run, a person shall not bring suit or initiate an arbitration or other legal proceedings to collect the debt."

ANALYSIS:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

CONT... Heather Ann Pessoa Bond

Chapter 13

Debtor acknowledges the fact that she failed to pay for transactions made on her account. The last payment made the account associated with Claim 4-1 was on October 2009, and the last payment made to the account associated with Claim 5-1 was on April 2008. (See Dkt. No 53, Ex. A, Pg 6; Dkt. No 55, Ex. A, Pg 5). Debtor's failure to make any payments to these accounts is construed as a breach of her contract. *Professional Collection Consultants v. Lauron*, 8 Cal. App 5th, 958, 966 (Cal. Dist. Ct. App. 2017).

The action to recover on an account accrues on the date of the last entry in the accounts. The last transaction entered into the account associated with Claim 4-1 was on June 2006. Likewise, the last transaction entered into the account associated with Claim 5-1 was on June 2006. Thus, the four-year statute of limitation has expired to initiate any legal proceedings to collect these debts.

The Court has noted that Debtor had a prior Chapter 13 (Case No. 18-12899) filing that was dismissed. Even when considering the toll affect of the prior Chapter 13, American Express is outside the four-year limitation.

TENTATIVE RULING

The Court is inclined to GRANT the motion, disallowing Claims 4-1 and 5-1 in their entirety.

APPERANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

CONT... Heather Ann Pessoa Bond

Chapter 13

Movant(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-11710 Heather Ann Pessoa Bond

Chapter 13

#15.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19

Also #13 & #14

EH ____

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-11766 Hassan Mohamad Adib Yahya

Chapter 13

Adv#: 6:19-01084 SCHOOLSFIRST FEDERAL CREDIT UNION v. Yahya

#16.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01084. Complaint by SCHOOLSFIRST FEDERAL CREDIT UNION against Hassan Mohamad Adib Yahya. false pretenses, false representation, actual fraud)) (Reza, Paul)

From: 8/1/19, 9/19/19

Also # 16.10

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hassan Mohamad Adib Yahya

Represented By
Todd L Turoci

Defendant(s):

Hassan Mohamad Adib Yahya

Pro Se

Plaintiff(s):

SCHOOLSFIRST FEDERAL

Represented By
Paul V Reza

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-11766 Hassan Mohamad Adib Yahya

Chapter 13

Adv#: 6:19-01084 SCHOOLSFIRST FEDERAL CREDIT UNION v. Yahya

#16.10 Plaintiff's Motion for Default Judgment

Also # 16

EH _____

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hassan Mohamad Adib Yahya

Represented By
Todd L Turoci

Defendant(s):

Hassan Mohamad Adib Yahya

Pro Se

Movant(s):

SCHOOLSFIRST FEDERAL

Represented By
Paul V Reza

Plaintiff(s):

SCHOOLSFIRST FEDERAL

Represented By
Paul V Reza

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-14508 Pete Kaliszewski

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pete Kaliszewski

Represented By
Richard G Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-14906 Dari Kelley

Chapter 13

#18.00 CONT Confirmation of Chapter 13 Plan

From: 9/5/19

EH ___

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dari Kelley

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-15060 Susan Lee Miller

Chapter 13

#19.00 CONT Confirmation of Chapter 13 Plan

From: 9/5/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Susan Lee Miller

Represented By
Nicholas Nicholas Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-15270 La Chatta P Hunter

Chapter 13

#20.00 CONT Confirmation of Chapter 13 Plan

From: 9/19/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

La Chatta P Hunter

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-15660 Parry Lyle Myers and Wendy Lou Myers

Chapter 13

#21.00 CONT Confirmation of Chapter 13 Plan

From: 9/19/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Parry Lyle Myers

Represented By
Jenny L Doling

Joint Debtor(s):

Wendy Lou Myers

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16130 Michelle J Meza

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle J Meza

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16135 Jerry Mitchell

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerry Mitchell

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16154 Connie Volpe

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/18/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Connie Volpe

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16168 Stephanie Garcia

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie Garcia

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16173 Jay Tony Klester

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jay Tony Klester

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16175 Natifa Snowden

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Natifa Snowden

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16193 La Toya J. Calvin

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

La Toya J. Calvin

Represented By
Gregory Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16207 Christian Flores

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christian Flores

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16210 Edward Joey Mish, Jr

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edward Joey Mish Jr

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16216 Luis D. Sanchez

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis D. Sanchez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16222 ROBERT LOUIS CIPOLLONI

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ROBERT LOUIS CIPOLLONI

Represented By
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16249 Charles Edmond Holbrook and Jennifer Lynn Holbrook

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Edmond Holbrook

Represented By
Robert W Ripley

Joint Debtor(s):

Jennifer Lynn Holbrook

Represented By
Robert W Ripley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16254 Michelle Barela

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Barela

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16298 Juan Antonio Clement and Karen Lynn Clement

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Antonio Clement

Represented By
Todd L Turoci

Joint Debtor(s):

Karen Lynn Clement

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16302 Veronica Guerrero

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Veronica Guerrero

Represented By
C Scott Rudibaugh

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16321 Maria Rendon

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria Rendon

Represented By
Kaveh Ardalan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16337 Lawrence Torres, III and Michelle Tapia Torres

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lawrence Torres III

Represented By
Jenny L Doling

Joint Debtor(s):

Michelle Tapia Torres

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16338 Joseph Bellotti and Regina Bellotti

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Bellotti

Represented By
Paul Y Lee

Joint Debtor(s):

Regina Bellotti

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16369 Jorge Luis Ibarra Carrillo

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Luis Ibarra Carrillo

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16386 John Louis MacLachlan

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 8/14/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Louis MacLachlan

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16388 Jose Diaz

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Diaz

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16409 Maria Elly Lotz and Steven Lotz

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria Elly Lotz

Represented By
Kevin Cortright

Joint Debtor(s):

Steven Lotz

Represented By
Kevin Cortright

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16413 Charles Edward Nathanie Wright and Malika Unami

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Edward Nathanie Wright

Represented By
April E Roberts

Joint Debtor(s):

Malika Unami Wright

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16444 Jose Antonio Mele and Victoria Isabel Mele

Chapter 13

#45.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Antonio Mele

Represented By
Chris A Mullen

Joint Debtor(s):

Victoria Isabel Mele

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16462 Veronica Valeria Licea

Chapter 13

#46.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Veronica Valeria Licea

Represented By
Keith Q Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16480 John August Manthe

Chapter 13

#47.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John August Manthe

Represented By
Michael R Totaro

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16544 Rudy Michael Castillo and Monica Michelle Castillo

Chapter 13

#48.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rudy Michael Castillo

Represented By
Nicholas Nicholas Wajda

Joint Debtor(s):

Monica Michelle Castillo

Represented By
Nicholas Nicholas Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-16586 Miguel Perez

Chapter 13

#49.00 Motion For Order Compelling Attorney to File Disclosure of Compensation Pursuant to 11 U.S.C. 329 And Federal Rule of Bankrutpcy Procedure 2016; Memorandum Of Points And Authorities; Declaration of Mary H. Avalos In Support Thereof

EH _____

Docket 26

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Perez

Represented By
Peter L Nisson

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:00 AM

6:19-18417 Jose G. Rodriguez

Chapter 13

#50.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: JOSE G. RODRIGUEZ

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose G. Rodriguez

Represented By
Christopher J Langley

Movant(s):

Jose G. Rodriguez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:15-14687 Vernia Jean Mosby

Chapter 13

#51.00 Trustee's Motion to Dismiss Case

EH__

Docket 129

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernia Jean Mosby

Represented By
Nancy Korompis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:15-17060 Chris Alvarado Espinoza

Chapter 13

#52.00 CONT Trustee's Motion to Dismiss Case

From: 10/3/19

EH ____

Docket 73

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Chris Alvarado Espinoza

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:15-19037 Justin Sloan Harvey

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 110

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Justin Sloan Harvey

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:16-16946 Elliott Howard Blue, Jr and Yvette Blue

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH__

Docket 104

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elliott Howard Blue Jr

Represented By
Michael E Clark
Barry E Borowitz

Joint Debtor(s):

Yvette Blue

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:16-18621 John Wesley Wilson, Jr. and Michelle Janet Wilson

Chapter 13

#55.00 CONT Trustee's Motion to Dismiss Case

From: 10/3/19

EH__

Docket 71

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Wesley Wilson Jr.

Represented By
Julie J Villalobos

Joint Debtor(s):

Michelle Janet Wilson

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:17-11177 Gary Wayne Turner and Wanda Renay Turner

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 55

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gary Wayne Turner

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Wanda Renay Turner

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:17-14292 Lubna Shiraz Ahmed

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 91

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lubna Shiraz Ahmed

Represented By
Joshua L Sternberg

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:17-15343 Jose Gabriel Sahagun, Jr.

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH _____

Docket 26

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Gabriel Sahagun Jr.

Represented By
Richard G Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:17-15893 Joseph Manuel Ruiz and Shannon Elizabeth Ruiz

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH ____

Docket 56

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/16/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Manuel Ruiz

Represented By
April E Roberts

Joint Debtor(s):

Shannon Elizabeth Ruiz

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:17-16164 William Richard Newborg and Serina Rae Newborg

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH__

Docket 89

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William Richard Newborg

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Serina Rae Newborg

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:17-20121 Agustin Napolion Joya and Dora Maria Joya

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH__

Docket 64

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Agustin Napolion Joya

Represented By
Daniel King

Joint Debtor(s):

Dora Maria Joya

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:17-20272 Jesus E. Montano and Nichole Montano

Chapter 13

#62.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19

EH ____

Docket 80

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus E. Montano

Represented By
Paul Y Lee

Joint Debtor(s):

Nichole Montano

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:18-11432 Armando Guzman

Chapter 13

#63.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Armando Guzman

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:18-15192 Everett T Cain

Chapter 13

#64.00 Trustee's Motion to Dismiss Case

EH ____

Docket 51

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/16/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Everett T Cain

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:18-15541 Alejandro Guillen and Karla Guillen

Chapter 13

#65.00 Trustee's Motion to Dismiss Case

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alejandro Guillen

Represented By
Neil R Hedtke

Joint Debtor(s):

Karla Guillen

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:18-18724 Marie Lynne Trejo

Chapter 13

#66.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19

EH ____

Docket 34

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marie Lynne Trejo

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:18-18821 Humberto Camacho, Jr and Sarah Camacho

Chapter 13

#67.00 CONT Trustee's Motion to Dismiss Case

From: 10/3/19

EH__

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Humberto Camacho Jr

Represented By
Christian N. Cooper

Joint Debtor(s):

Sarah Camacho

Represented By
Christian N. Cooper

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:18-19183 Carmen Lynn Chilson

Chapter 13

#68.00 Trustee's Motion to Dismiss Case

EH__

Docket 73

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carmen Lynn Chilson

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:18-19628 Reynaldo Perez and Gatziry Zeledon

Chapter 13

#69.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19

EH ____

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Reynaldo Perez

Represented By
Paul Y Lee

Joint Debtor(s):

Gatziry Zeledon

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:19-10531 Kimberly A Hardcastle

Chapter 13

#70.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kimberly A Hardcastle

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:19-11041 Caleb J. Bellot and Mandle Lynn Bellot

Chapter 13

#71.00 CONT Trustee's Motion to Dismiss Case

From: 10/3/19

EH ____

Docket 42

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Caleb J. Bellot

Represented By
Daniel King

Joint Debtor(s):

Mandle Lynn Bellot

Represented By
Daniel King

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:19-11090 Angela Clarice Atou

Chapter 13

#72.00 Trustee's Motion to Dismiss Case

EH__

Docket 56

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angela Clarice Atou

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:19-11963 Pamela M Bradford

Chapter 13

#73.00 Trustee's Motion to Dismiss Case

EH ____

Docket 46

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/15/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pamela M Bradford

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:19-12186 Roshanda Jeannen Dodds

Chapter 13

#74.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19

EH ____

Docket 31

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roshanda Jeannen Dodds

Represented By
Nicholas Nicholas Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:19-12398 Jerry Melendrez and Laura Therese Melendrez

Chapter 13

#75.00 Trustee's Motion to Dismiss Case

EH__

Docket 46

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerry Melendrez

Represented By
Todd L Turoci

Joint Debtor(s):

Laura Therese Melendrez

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:19-13444 Humberto Picciotti

Chapter 13

#76.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Humberto Picciotti

Represented By
D Justin Harelik

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 17, 2019

Hearing Room 303

11:01 AM

6:19-14029 Cynthia Molina Gomez

Chapter 13

#77.00 Trustee's Motion to Dismiss Case

EH__

Docket 33

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cynthia Molina Gomez

Represented By
Joshua L Sternberg

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 17, 2019

Hearing Room 303

2:00 PM

6:19-18878 Suzanne Joyce Vargo-Wagner

Chapter 7

#78.00 Order Setting Emergency Hearing on Debtor's Motion re Violation of the Automatic Stay

EH ____

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Suzanne Joyce Vargo-Wagner	Pro Se
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Trustee(s):

Howard B Grobstein (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, October 21, 2019

Hearing Room 303

9:30 AM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#1.00 Trial RE: [40] Amended Complaint (Second) by Franklin R Fraley Jr on behalf of Revere Financial Corporation against Bank of Southern California, N.A.. (RE: related document(s)1 Adversary case 6:16-ap-01199. Complaint by Revere Financial Corporation against Bank of Southern California, N.A.. (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)) (Fraley, Franklin)

EH__

Docket 40

***** VACATED *** REASON: ORDER ENTERED 10/9/19**

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr
Sue-Ann L Tran

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 22, 2019

Hearing Room 303

9:30 AM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#1.00 Trial RE: [40] Amended Complaint (Second) by Franklin R Fraley Jr on behalf of Revere Financial Corporation against Bank of Southern California, N.A.. (RE: related document(s)1 Adversary case 6:16-ap-01199. Complaint by Revere Financial Corporation against Bank of Southern California, N.A.. (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)) (Fraley, Franklin)

EH__

Docket 40

***** VACATED *** REASON: ORDER ENTERED 10/9/19**

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr
Sue-Ann L Tran

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, October 23, 2019

Hearing Room 303

9:30 AM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#1.00 Trial RE: [40] Amended Complaint (Second) by Franklin R Fraley Jr on behalf of Revere Financial Corporation against Bank of Southern California, N.A.. (RE: related document(s)1 Adversary case 6:16-ap-01199. Complaint by Revere Financial Corporation against Bank of Southern California, N.A.. (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other)) (Fraley, Franklin)

EH__

Docket 40

*** VACATED *** REASON: ORDER ENTERED 10/9/19

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr
Sue-Ann L Tran

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:15-14652 Donald Ray Eskridge

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 14798 Ladybird Ln, Victorville, California 92394

MOVANT: PENNYMAC LOAN SERVICES, LLC

EH ____

Docket 80

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/24/19

Tentative Ruling:

Tentative Ruling:

10/29/19

Service: Proper
Opposition: Debtor

Movant not having filed a reply, parties are to address reconciliation of payments made.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Donald Ray Eskridge

Represented By
Paul Y Lee

Movant(s):

PennyMac Loan Services, LLC

Represented By
John D Schlotter
Karrollanne K Cayce
Christina J Khil

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... Donald Ray Eskridge

Gilbert R Yabes

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:16-15914 Maria Aurora Chaidez Grajeda

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Dodge Ram 1500 Quad Cab SLT 1C6RR6GG7HS651216

MOVANT: CONSUMER PORTFOLIO SERVICES, INC.

From: 7/30/19, 8/27/19, 9/3/19, 9/17/19, 10/15/19

EH __

Docket 43

***** VACATED *** REASON: ORDER ENTERED 10/22/19**

Tentative Ruling:

9/17/2019

Service is Proper
Opposition: Debtor

Parties to apprise the court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

7/30/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... Maria Aurora Chaidez Grajeda

Chapter 13

Party Information

Debtor(s):

Maria Aurora Chaidez Grajeda

Represented By
Nicholas M Wajda

Movant(s):

Consumer Portfolio Services, Inc.

Represented By
Erin M McCartney

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:17-16945 Rickey Hernando Waddington and Elrena Victoria

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 NISSAN VERSA, VIN # 3N1CE2CP7FL434613

MOVANT: REGIONAL ACCEPTANCE CORPORATION

EH__

Docket 38

***** VACATED *** REASON: APO ORDER ENTERED 10/18/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rickey Hernando Waddington

Represented By
Jonathan D Doan

Joint Debtor(s):

Elrena Victoria Waddington

Represented By
Jonathan D Doan

Movant(s):

REGIONAL ACCEPTANCE

Represented By
Michael D Vanlochem

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:17-20487 Ann Marie Smith

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6140 Sard Street, Rancho Cucamonga, CA 91701

MOVANT: BAYVIEW LOAN SERVICING, LLC

EH ____

Docket 108

Tentative Ruling:

Tentative Ruling:

10/29/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3, and 6. DENY request under ¶ 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ann Marie Smith

Represented By
Brian J Soo-Hoo

Movant(s):

Bayview Loan Servicing, LLC, and

Represented By
Christina J Khil

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... Ann Marie Smith

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:18-13102 Luis Felipe Tejada and Veronica Esther Tejada

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1329 Sugar Maple Lane, Perris, California 92571

MOVANT: U.S. BANK NATIONAL ASSOCIATION

EH__

Docket 36

Tentative Ruling:

Tentative Ruling:

10/29/19

Service is Proper
Opposition: Debtor

Parties to discuss amount of arrears and status of adequate protection order discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Luis Felipe Tejada

Represented By
Dana Travis

Joint Debtor(s):

Veronica Esther Tejada

Represented By
Dana Travis

Movant(s):

U.S. BANK NATIONAL

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

**CONT... Luis Felipe Tejada and Veronica Esther Tejada
Sean C Ferry**

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:18-17732 DeBora Debbie Walker

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 741 West Linn Point, San Jacinto, CA 92582

MOVANT:NATIONS DIRECT MORTGAGE LLC

EH__

Docket 43

Tentative Ruling:

Tentative Ruling:

10/29/19

Service is Proper
Opposition: Debtor

Parties to apprise the court on adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

DeBora Debbie Walker

Represented By
Nicholas M Wajda

Movant(s):

NATIONS DIRECT MORTGAGE,

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:18-19096 Nathaniel Russell Williams

Chapter 7

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 21650 Temescal Canyon Rd., Sp 50, Corona, CA

MOVANT: 21ST MORTGAGE CORPORATION

EH ____

Docket 50

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/28/19**

Tentative Ruling:

Tentative Ruling:

10/29/19

The motion is predicated on Debtor not filing a reaffirmation agreement. However, a reaffirmation agreement was filed five days after this motion, which appears to moot the relief requested. Movant to address current situation.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Nathaniel Russell Williams

Represented By
Dana Travis

Movant(s):

21st Mortgage Corporation

Represented By
Amy Dukes
Diane Weifenbach

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:18-20308 Joseph Liebgott, IV and Robby Jean Harrison

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 35694 Sierra Lane, Yucaipa, CA 92399 Under 11 U.S.C. § 362.

MOVANT: FREEDOM MORTGAGE CORPORATION

EH__

Docket 60

Tentative Ruling:

Tentative Ruling:

10/29/19

Service is Proper
Opposition: Debtors

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 6. DENY alternative request under ¶13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Joseph Liebgott IV

Represented By
John F Brady

Joint Debtor(s):

Robby Jean Harrison

Represented By
John F Brady

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... Joseph Liebgott, IV and Robby Jean Harrison

Chapter 13

Movant(s):

Freedom Mortgage Corporation

Represented By

Mark S Krause

Ashley Popowitz

Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:18-20759 Elida Soto

Chapter 13

#9.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13692 Bedford Place, Victorville, CA 92392

MOVANT: NATIONS DIRECT MORTGAGE, LLC

From: 7/30/19, 8/27/19, 10/1/19

EH ____

Docket 40

*** VACATED *** REASON: ORDER ENTERED 10/7/19

Tentative Ruling:

7/30/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Elida Soto

Represented By
William G Cort

Movant(s):

NATIONS DIRECT MORTGAGE,

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:19-11204 Gregory Lee Haan, Jr. and Yisel Haan

Chapter 13

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 24557 Wisteria Lane, Moreno Valley, CA 92557

MOVANT: MIDFIRST BANK

EH__

Docket 32

Tentative Ruling:

Tentative Ruling:

10/29/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Gregory Lee Haan Jr.

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Yisel Haan

Represented By
Terrence Fantauzzi

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... Gregory Lee Haan, Jr. and Yisel Haan

Chapter 13

Movant(s):

MidFirst Bank

Represented By
Gilbert R Yabes
Merdaud Jafarnia
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:19-16633 Dennis Kent Gilman and Leesa Marie Gilman

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 24035 Sweet William Lane, Murrieta, CA 92562

MOVANT: NATIONSTAR MORTGAGE LLC

EH__

Docket 11

Tentative Ruling:

Tentative Ruling:

10/29/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶¶ 2, 3, and 12.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Dennis Kent Gilman

Represented By
Carey C Pickford

Joint Debtor(s):

Leesa Marie Gilman

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... Dennis Kent Gilman and Leesa Marie Gilman
Carey C Pickford

Chapter 7

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nancy L Lee

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:19-17009 Joshua William Watters and Kari Anne Watters

Chapter 7

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Cadillac ATS, VIN:1G6AA5RA3E0100761

MOVANT: AMERICREDIT FINANCIAL SERVICES INC

EH__

Docket 15

Tentative Ruling:

Tentative Ruling:

10/29/19

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Joshua William Watters

Represented By
Paul Y Lee

Joint Debtor(s):

Kari Anne Watters

Represented By
Paul Y Lee

Movant(s):

AmeriCredit Financial Services, Inc.

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... Joshua William Watters and Kari Anne Watters

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:19-17216 Gary Freelen Ellison and Rachelle Malbrough Ellison

Chapter 7

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13207 Kayuga Street, Victorville, CA 92392

MOVANT: HSBC BANK USA, NATIONAL ASSOCIATION

EH__

Docket 8

Tentative Ruling:

Tentative Ruling:

10/29/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶¶ 2, 3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Gary Freelen Ellison

Represented By
Neil R Hedtke

Joint Debtor(s):

Rachelle Malbrough Ellison

Represented By
Neil R Hedtke

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... Gary Freelen Ellison and Rachelle Malbrough Ellison

Chapter 7

Movant(s):

HSBC Bank USA, National

Represented By
Nancy L Lee
Merdaud Jafarnia

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:19-17454 Andrea A Duncan

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7132 Colwyn Ave, Highland, California 92346

MOVANT: CREATIVE INVESTMENT GROUP, INC

EH__

Docket 28

Tentative Ruling:

Tentative Ruling:

10/29/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶ 2. DENY request under ¶ 5 because there is no co-debtor. DENY alternative request under ¶12 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Andrea A Duncan

Represented By
Marc A Goldbach

Movant(s):

Creative Investment Group, Inc.

Represented By
Julian K Bach

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... Andrea A Duncan

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:19-17489 David Aaron Graves and Kendra Clairice Graves

Chapter 13

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Nissan NV3500 Passenger

MOVANT: THE GOLDEN 1 CREDIT UNION

EH ___

Docket 15

Tentative Ruling:

Tentative Ruling:

10/29/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

David Aaron Graves

Represented By
Carey C Pickford

Joint Debtor(s):

Kendra Clairice Graves

Represented By
Carey C Pickford

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... David Aaron Graves and Kendra Clairice Graves

Chapter 13

Movant(s):

Golden 1 Credit Union

Represented By
Mirco J Haag

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:19-17784 Up Lim

Chapter 7

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 BMW X3 xDrive28i Sport Utility 4D

MOVANT: FINANCIAL SERVICES VEHICLE TRUST

EH ____

Docket 8

Tentative Ruling:

Tentative Ruling:

10/29/19

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Up Lim

Represented By
Jaenam J Coe

Movant(s):

Financial Services Vehicle Trust

Represented By
Cheryl A Skigin

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:19-18100 Jeniece M Neese

Chapter 7

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2004 CHEVROLET SILVERADO, VIN: 1GCG C23U 44F1 08012

MOVANT: MECHANICS BANK

EH__

Docket 8

Tentative Ruling:

Tentative Ruling:

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jeniece M Neese

Represented By
William Gregg
Bill H Gregg

Movant(s):

MECHANICS BANK

Represented By
Vincent V Frounjian

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:19-18712 Casildo Guerra, JR.

Chapter 13

#18.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property at 29731 Mesa Verde Circle, Menifee, CA 92584

MOVANT: CASILDO GUERRA, JR

EH __

Docket 13

Tentative Ruling:

TENTATIVE RULING:

10/29/19

Service: Proper
Opposition: None

The Court having reviewed the motion, notice acceptable, no opposition having been filed, and appearing that Debtor has provided sufficient evidence to rebut the statutory presumption of 11 U.S.C. § 362(c)(3)(C)(II)(aa) that the case was not filed in good faith, the Court is inclined to GRANT the motion, CONTINUING the automatic stay as to all creditors.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Casildo Guerra JR.

Represented By
W. Derek May

Movant(s):

Casildo Guerra JR.

Represented By
W. Derek May

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

CONT... Casildo Guerra, JR.

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

11:00 AM

6:19-16210 Edward Joey Mish, Jr

Chapter 13

#18.10 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 12476 13th St, Yucaipa, 92399

MOVANT: EDWARD & WENDY SOUSA AS TRUSTEES OF THE SOUSA REVOCABLE FAMILY TRUST

EH__

Docket 42

Tentative Ruling:

Tentative Ruling:

10/29/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1).
GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 4.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Edward Joey Mish Jr

Represented By
Matthew D. Resnik

Movant(s):

Edward & Wendy Sousa As Trustees

Represented By
William E Windham

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:17-15816 Integrated Wealth Management Inc

Chapter 11

Adv#: 6:19-01100 Issa v. Delaney et al

#19.00 Motion to Dismiss by Defendant Ryan Delaney

Also #20

EH __

Docket 12

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/3/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Integrated Wealth Management Inc

Represented By
Andrew B Levin
Robert E Opera
Jim D Bauch

Defendant(s):

Ryan Delaney

Represented By
Paul A Reynolds

John Wong

Represented By
David P Bleistein

Movant(s):

Ryan Delaney

Represented By
Paul A Reynolds

Plaintiff(s):

J. Michael Issa

Represented By
Joseph R Ignatuk

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:17-15816 Integrated Wealth Management Inc

Chapter 11

Adv#: 6:19-01100 Issa v. Delaney et al

#20.00 Motion to Dismiss Adversary Proceeding by Defendant John Wong

Also #19

EH__

Docket 16

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/1/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Integrated Wealth Management Inc

Represented By
Andrew B Levin
Robert E Opera
Jim D Bauch

Defendant(s):

Ryan Delaney

Represented By
Paul A Reynolds

John Wong

Represented By
David P Bleistein

Movant(s):

John Wong

Represented By
David P Bleistein

Plaintiff(s):

J. Michael Issa

Represented By
Joseph R Ignatuk

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#21.00 (Jointly Administered - LEAD CASE)

CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/21/19, 7/30/19

Also #22-#25

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#22.00 **(Jointly Administered with Wildomar Ace Hardware Inc)**
CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/21/19, 7/30/19

Also #21-#25

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#23.00 (Jointly Administered with 9 Fingers Inc)
CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/21/19, 7/30/19

Also #21-#25

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#24.00 (Jointly Administered with Riverside Ace Hardware Inc)
CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/21/19, 7/30/19

Also #21-#25

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
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Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#25.00 (Jointly Administered with P&P Hardware Inc)
CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/21/19, 7/30/19

Also #21-#24

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
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Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#26.00 CONT Motion for approval of the adequacy of the chapter 11 disclosure statement

From: 1/29/19, 3/5/19, 6/11/19, 8/20/19

Also #27

EH__

Docket 111

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

Movant(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
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Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#27.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 10/23/18, 11/27/18, 1/29/19, 3/5/19, 6/11/19, 8/20/19

Also #26

EH__

Docket 96

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

#28.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 5/8/18, 8/21/18, 9/11/18, 9/25/18, 10/30/18, 11/6/18, 12/18/18, 3/5/19,
3/26/19, 8/20/19

EH__

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

**United States Bankruptcy Court
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Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#29.00 CONT Motion for approval of chapter 11 disclosure statement

From: 10/8/19

Also #30

EH__

Docket 181

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

Movant(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
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Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:18-10628 Markus Anthony Boyd

Chapter 11

#30.00 CONT Order (1) Setting Scheduling Hearing And Case Management
Conference And (2) Requiring Status Report

From: 3/20/18, 8/21/18, 10/23/18, 11/27/18, 2/5/19, 5/7/19, 7/30/19, 10/8/19

Also #29

EH__

Docket 16

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Anthony Boyd

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
Central District of California
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Courtroom 303 Calendar**

Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#31.00 CONT Debtor's Motion to Dismiss Chapter 11 Case

From: 7/16/19, 8/20/19

Also #32-#34

EH ____

Docket 162

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, October 29, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#32.00 CONT United States Trustee's Motion to Dismiss Case or to Convert Case

From: 5/28/19, 7/16/19, 8/20/19

Also #31-#34

EH__

Docket 138

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

United States Trustee (RS)

Represented By
Everett L Green
Abram Feuerstein esq

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#33.00 CONT First Interim Fee Application of Terzian Law Group, A Professional Corporation, Attorney for Debtor and Debtor in Possession for Tamar Terzian, Debtor's Attorney, Period: 7/23/2018 to 6/15/2019, Fee: \$57487.50, Expenses: \$3178.12.

From: 7/16/19, 8/27/19

Also #31-#34

EH __

Docket 160

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
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2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#34.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 8/21/18, 10/16/18, 12/4/18, 12/18/18, 1/15/19, 2/5/19, 4/16/19, 5/28/19, 7/16/19, 8/20/19

Also #31-#33

EH __

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23631 Rhea Drive, Moreno Valley, CA 92557

MOVANT: NATIONSTAR MORTGAGE LLC DBA MR. COOPER AS
SERVICING AGENT FOR DEUTSCHE BANK NATIONAL TRUST COMPANY

From: 8/20/19, 10/1/19

EH__

Docket 42

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Movant(s):

Deutsche Bank National Trust

Represented By
Nancy L Lee
Gilbert R Yabes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

CONT... Tanyua Alicia Gates-Holmes

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-10273 Maisha Lenette Ghant-Elie

Chapter 13

#2.00 Motion to Vacate Order Dismissing Bankruptcy Case

EH ____

Docket 67

Tentative Ruling:

10/31/19

BACKGROUND

On January 13, 2019, Maisha Ghant-Elie ("Debtor") filed a Chapter 13 voluntary petition. Debtor had previously had a Chapter 13 case dismissed on November 8, 2018, for failure to make plan payments. On January 31, 2019, the Court orally granted Debtor's motion to continue the automatic stay, although the Court notes that no order was ever lodged. The Court also notes that Debtor had a motion to value property granted at a hearing on March 28, 2019, and no order was ever lodged for that motion either.

Debtor's Chapter 13 plan was confirmed on April 30, 2019. On August 21, 2019, Trustee filed a motion to dismiss for failure to make plan payments. A hearing was set for September 19, 2019. At the time of the hearing, Debtor had cured the outstanding delinquency at the time that the motion to dismiss was filed, but was now behind on her September plan payment. Not being presented with an adequate explanation from Debtor's counsel, the Court dismissed the case on September 19, 2019.

On October 3, 2019, Debtor filed a motion to vacate dismissal. On October 7, 2019, Trustee filed comments indicating approval of the motion to vacate dismissed, conditioned upon: (1) Debtor making all payments which would have been due under the plan (2 payments); and (2) Debtor addressing the infeasibility of the plan. On

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11:00 AM

CONT... **Maisha Lenette Ghant-Elie**

Chapter 13

October 18, 2019, Debtor's counsel filed a declaration indicating that he was in possession of the required funds.

DISCUSSION

I. *FRCP 60(B) – Excusable Neglect*

FED. R. CIV. P. Rule 60(b)(1) states:

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect

Here, Debtors argue that the order of dismissal was a result of excusable neglect. When, as is the case here, it appears that neglect caused the dismissal, the Court must determine whether the neglect was excusable. *Pioneer* provides guidance on the standard for excusable:

With regard to determining whether a party's neglect of a deadline is excusable, we are in substantial agreement with the factors identified by the Court of Appeals. Because Congress has provided no other guideposts for determining what sorts of neglect will be considered "excusable," we conclude that the determination is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission. These include, as the Court of Appeals found, the danger of 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

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11:00 AM

CONT...

Maisha Lenette Ghant-Elie

Chapter 13

whether the movant acted in good faith.

Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 395 (1993).. In making this determination, the Court must consider the actions of Debtors and their counsel. *See id.* at 397. Excusable neglect "encompass[es] situations in which the failure to comply with a filing deadline is attributable to negligence." *Id.* at 394.

Regarding the first factor, prejudice, the Court notes that it has not received any opposition to the instant motion and, assuming compliance with the conditions stated in the Trustee's comments, it would not appear that any party would suffer legal prejudice from the dismissal being vacated.

Regarding the second factor, length of delay, Debtor waited for fourteen days before filing the instant motion to vacate dismissal. The court considers this delay to be relatively *de minimis*. Furthermore, the delay between when the September plan payment was due (September 13) and when the plan payment was made (October 1) is relatively insignificant.

Regarding the third factor, whether the delay was within the reasonable control of the movant, Debtor appears to have had the ability to timely make the September plan payment, but erroneously thought that the payment was due the next week.

Regarding the fourth factor, good faith, it appears that Debtor is acting in good faith. The evidence submitted to the Court demonstrates that Debtor took steps to promptly and fully cure all outstanding deficiencies associated with her case as soon as she realized that she had miscalendared the hearing date.

Because vacating dismissal would not cause significant prejudice or significant delay, and because it appears Debtor has acted in good faith, the *Pioneer* factors weigh in

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CONT... **Maisha Lenette Ghant-Elie**
favor of vacating dismissal.

Chapter 13

TENTATIVE RULING

The Court is inclined to GRANT the motion, VACATING dismissal.

APPEARANCES REQUIRED. John Brady to personally appear.

Party Information

Debtor(s):

Maisha Lenette Ghant-Elie

Represented By
John F Brady

Movant(s):

Maisha Lenette Ghant-Elie

Represented By
John F Brady
John F Brady
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-10415 Lewis K. Chism and Latoya A. Chism

Chapter 13

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

From: 10/17/19

EH__

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lewis K. Chism

Represented By
Christopher J Langley

Joint Debtor(s):

Latoya A. Chism

Represented By
Christopher J Langley

Movant(s):

Lewis K. Chism

Represented By
Christopher J Langley

Latoya A. Chism

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-13374 Michael Arthur Eidsvoog and Kathyryn Michelle Eidsvoog Chapter 13

#4.00 Motion and Debtor's Opposition to Trustee's Proposed Order Confirming Chapter 13 Plan

EH ____

Docket 39

***** VACATED *** REASON: CASE DISMISSED 10/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Arthur Eidsvoog

Represented By
Todd L Turoci

Joint Debtor(s):

Kathyryn Michelle Eidsvoog

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-15270 La Chatta P Hunter

Chapter 13

#5.00 CONT Confirmation of Chapter 13 Plan

From: 9/19/19, 10/17/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

La Chatta P Hunter

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16068 John B Jensen

Chapter 13

#6.00 CONT Confirmation of Chapter 13 Plan

From: 10/3/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John B Jensen

Represented By
Marjorie M Johnson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16207 Christian Flores

Chapter 13

#7.00 CONT Confirmation of Chapter 13 Plan

From: 10/17/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christian Flores

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16413 Charles Edward Nathanie Wright and Malika Unami

Chapter 13

#8.00 CONT Confirmation of Chapter 13 Plan

From: 10/17/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Edward Nathanie Wright

Represented By
April E Roberts

Joint Debtor(s):

Malika Unami Wright

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16558 Debra S Towne

Chapter 13

#9.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Debra S Towne

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16560 Orlando Soriano and Veronica Vera-Soriano

Chapter 13

#10.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Orlando Soriano

Represented By
James D. Hornbuckle

Joint Debtor(s):

Veronica Vera-Soriano

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16570 Darryl Hernandez

Chapter 13

#11.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Darryl Hernandez

Represented By
Laleh Ensafi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16586 Miguel Perez

Chapter 13

#12.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 8/28/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Perez

Represented By
Peter L Nisson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16611 Vincent James Carabba

Chapter 13

#13.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vincent James Carabba

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16654 Liliya Kisliuk

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Liliya Kisliuk

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16658 Stephanie McCravey Cooper

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie McCravey Cooper

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16677 Denver Charles Cooley, Jr and Tracy Lee Cooley

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denver Charles Cooley Jr

Represented By
Dana Travis

Joint Debtor(s):

Tracy Lee Cooley

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16691 John Martin Laser

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Martin Laser

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16728 Patrocinio Castaneda and Liliana Salgado

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patrocinio Castaneda

Represented By
George C Panagiotou

Joint Debtor(s):

Liliana Salgado

Represented By
George C Panagiotou

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16736 Sheri L. Orellana

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sheri L. Orellana

Represented By
Kevin M Mahan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16772 Grace Gonzales

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Grace Gonzales

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16777 Michael Alba

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Alba

Represented By
Laleh Ensafi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16782 Raymond Edward Reeley

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Raymond Edward Reeley Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16791 Robert Joseph Slapp, III

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Joseph Slapp III

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16809 Josephine H Holguin

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Josephine H Holguin

Represented By
Richard L Barrett

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16815 Carl John Larson, Jr.

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carl John Larson Jr.

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16831 Paul Kirkwood

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul Kirkwood

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16832 Mario Chiong and Nona Chiong

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mario Chiong

Represented By
Paul Y Lee

Joint Debtor(s):

Nona Chiong

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16881 Juan Manuel Andrade and Cecilia R Andrade

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: RESCHEDULED TO 1/2/20 AT 11:00 A.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Manuel Andrade

Represented By
J.D. Cuzzolina

Joint Debtor(s):

Cecilia R Andrade

Represented By
J.D. Cuzzolina

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16889 Viridiana Flores

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Viridiana Flores

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16904 Keisha Renette Williams

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Keisha Renette Williams

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16912 William Andrew Gray

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 8/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William Andrew Gray

Represented By
Stephen L Burton

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16926 Zakiyyah Johnson-Salaam

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 8/28/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zakiyyah Johnson-Salaam

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16941 Latacia D Sanders

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Latacia D Sanders

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16963 Dan Parr and Ida Parr

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dan Parr

Represented By
Paul Y Lee

Joint Debtor(s):

Ida Parr

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16977 Mark E Harvey

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark E Harvey

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16979 Flor Aguilar

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Flor Aguilar

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-16985 Sharna Dobbins

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sharna Dobbins

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:19-17818 Martha Calleros

Chapter 13

#38.00 Motion by United States Trustee to Dimiss Chapter 13 Case with a Re-filing Bar
EH__

Docket 9

Tentative Ruling:

10/31/19

BACKGROUND

On October 3, 2019, Martha Calleros ("Debtor") filed a skeletal Chapter 13 voluntary petition. Debtor has had bankruptcy cases previously dismissed in: (1) 1999; (2) 2016; (3) February 2017; (4) July 2017; (5) March 2019; and (6) July 2019. All five of the cases since 2016 were dismissed for failure to file information.

The balance of Debtor's case commencement documents were due September 19, 2019. Debtor did not file the balance of the case commencement documents. On September 23, 2019, UST filed a motion to dismiss the case with a one-year bar to refiling.

DISCUSSION

Regarding UST's request to dismiss the case, 11 U.S.C. § 1307(c) provides a non-exhaustive list of grounds for dismissal of a Chapter 13 case. Sections 1307(c)(1), (3), (4), and (9) all provide grounds to dismiss a Chapter 13 case when the debtor files a skeletal petition and fails to take any further action to prosecute the case. Section

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CONT... Martha Calleros

Chapter 13

1307(c) instructs the Court, however, to consider whether dismissal or conversion is in the best interests of creditors. UST has not addressed whether dismissal or conversion would be in the best interests of creditors.

Assuming that dismissal is in the best interests of creditors, the court notes that it empowered to impose a refiling bar under 11 U.S.C. § 349(a). As COLLIER notes, courts' analysis of this section is somewhat confused due to confounding "dismissal with prejudice" with "dismissal with injunction against future filings." COLLIER ON BANKRUPTCY ¶ 349.02[3]; *compare In re Garcia*, 479 B.R. 488 (Bankr. N.D. Ind. 2012) (denying motion for dismissal with prejudice, but imposing three-year refiling bar) *with In re Craighead*, 377 B.R. 648 (Bankr. N.D. Cal. 2007) (appearing to equate dismissal with prejudice with an injunction against refiling).

There is also a circuit split concerning whether an injunction on refiling for more than 180 days is allowed under the Bankruptcy Code. *Compare In re Frieouf*, 938 F.2d 1099 (10th Cir. 1991) (180 days is maximum allowed length of refiling injunction) *with Casse v. Key Bank Nat. Ass'n*, 198 F.3d 327 (2nd Cir. 1999) (injunction against filing for more than 180 days permissible). 11 U.S.C. § 349(a) reads:

Unless, the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(g) of this title.

The disagreement revolves around whether the qualifier "Unless, the court, for cause, orders otherwise" modifies the content after the semi-colon. *In re Leavitt* noted this disagreement, but since the court was dealing with a dismissal with prejudice, rather than an injunction against refiling, it did not resolve the issue. 209 B.R. 935, 942 (9th Cir. B.A.P. 1997). Within the Ninth Circuit, it appears the trend is to adopt the reasoning of the Second Circuit and allow injunctions for more than 180 days, and the Court agrees with that reading of the statute. *See e.g. In re Velasques*, 2012 WL 8255582 at *3 (Bankr. E.D. Cal. 2012).

Here, the instant bankruptcy is Debtor's sixth skeletal filing in the previous three

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CONT... Martha Calleros

Chapter 13

years. Furthermore, Debtor failed to disclose any previous filings in the voluntary petition, which is signed under penalty of perjury. For these reasons, the Court is inclined to find the requested one-year refiling bar to be appropriate in the circumstances presented.

Moreover, Debtor's failure to oppose is deemed consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

UST to address whether dismissal or conversion is in the best interests of creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Martha Calleros

Pro Se

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:00 AM

6:17-13923 Suzanne Berry

Chapter 13

#38.10 Motion to vacate order 109(g) Restriction

EH__

Docket 46

Tentative Ruling:

10/31/2019

BACKGROUND

On May 10, 2017, Suzanne Berry ("Debtor") filed a Chapter 13 voluntary petition. On July 7, 2017, Debtor's Chapter 13 plan was confirmed.

On May 31, 2018, Champion Mortgage Company ("Creditor") filed a motion for relief from the automatic stay. Debtor did not file any opposition to the motion for relief from stay. Nevertheless, the Court continued the hearing on the motion for relief from stay twice, and Creditor ultimately withdrew the motion.

On August 6, 2019, Creditor filed a second motion for relief from the automatic stay. Once again, Debtor did not file any opposition to the motion for relief from the automatic stay. The Court required appearances at the hearing of September 3, 2019, but no appearance was made for Debtor at the hearing. Creditor's motion for relief from stay was granted by order entered on September 9, 2019. On October 21, 2019, Debtor filed a request for voluntary dismissal of her Chapter 13 case. In the request for voluntary dismissal, Debtor specifically cited the relief from stay obtained by Creditor as the reason for the voluntary dismissal.

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11:00 AM

CONT... Suzanne Berry

Chapter 13

On October 23, 2019, Debtor filed a motion to vacate the § 109(g) re-filing bar and an application shortening time. The Court approved the application, setting a hearing for October 31, 2019. On October 25, 2019, the Chapter 13 Trustee filed comments indicating that it took no position, while providing caselaw for Debtor to review. On October 28, 2019, Debtor filed a supplemental legal brief in support of its request.

DISCUSSION

11 U.S.C. § 109(g)(2)(2010) states:

(g) Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if-

(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.

As noted by the Chapter 13 Trustee, a recent bankruptcy decision outlined the split in authority in interpreting 11 U.S.C. § 109(g). *See In re Evansingston*, 2019 WL 4410514 at *3 (Bankr. E.D. Ark. 2019). Specifically, *In re Evansingston* identified four new interpretations: (1) the mandatory approach; (2) the discretionary or equitable approach; (3) the pending motion approach; and (4) the causal connection approach. *Id*; *see also* Ned Waxman, *Judicial Follies: Ignoring the Plain Meaning of Bankruptcy Code § 109(g)(2)*, 48 ARIZ. L. REV. 149 (2006). Here, it is clear that Debtor's voluntary dismissal of her cause was proximately caused by the relief from stay obtained by Creditor, so Debtor must persuade this Court to adopt either the second or the third approaches.

In support of the pending motion approach, Debtor cites two cases: (1) *In re Jones*, 99 B.R. 412 (Bankr. E.D. Ark. 1989); and (2) *In re Richter*, 2010 WL 4272915 (Bankr. N.D. Iowa 2010). The Court notes that these are the two cases referred to in *In re Evansingston* as following the pending motion approach. *In re Jones* contains no legal

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CONT...

Suzanne Berry

Chapter 13

analysis whatsoever, simply concluding that "Section 109(g)(2) applies only if there is a contested matter pending at the time of the voluntary dismissal." 99 B.R. at 413. In support of this conclusion, the Court in *In re Jones* cited two cases. Neither of these cases contains legal analysis of any detail either, and one of the cases, *Matter of Milton*, 82 B.R. 637 (Bankr. S.D. Ga. 1988), deals with a situation where there was a tentative settlement of the motion for relief from stay. In fact, when presented with an argument citing *In re Jones* and the two cases it relied upon, one bankruptcy court recently stated the following:

The three cases cited by Debtor, which appear to be the only cases holding that there need be a "pending" motion for relief from stay are simply, in this Court's view, bad law. Nowhere in the three opinions is there set forth any discussion or rational basis for the holding that there must be a pending motion for relief at the time of the dismissal of the debtors first bankruptcy case. This view is erroneous because of both the language of the status and the purpose for which it was enacted. The language of § 109(g)(2) contains no reference whatsoever to a requirement that the motion be pending. It simply says "following the filing of a request for relief from the automatic stay." Such a restrictive reading of § 109(g)(2) would eviscerate the underlying policy rationale for the rule.

In re Gill, 584 B.R. 63, 70 (Bankr. W.D. Okla. 2018).

The second case cited by Debtor, *In re Richter*, does contain helpful legal analysis. Importantly, however, the analysis provided in *In re Richter* does not appear to support Debtor's position. Specifically, *In re Richter* stated the following:

In particular, this Court finds the reasoning of the "pending motion" (i.e. one not already resolved) analysis persuasive. In those cases, courts have applied an exception to dismissal under § 109(g)(2) when there has been a resolution of the motion for relief from stay before the voluntary dismissal of the earlier case occurred.

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CONT... Suzanne Berry

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The "pending motion" approach tailors the interpretation of § 109(g)(2) to address only the abuse prevention concerns Congress sought to address. The approach recognizes that when a motion for relief from stay is pending it is important that such a motion not be thwarted by debtors who voluntarily dismiss in order to frustrate a creditor, then turn around, and abusively refile. However, the approach also recognizes there is no purpose in barring the filing of a second case when a motion for relief is resolved or rendered moot, before the voluntary dismissal.

The Court also finds, as the Supreme did in *Hamilton*, that rejection of the mechanical interpretation of § 109(g)(2) is consistent with leading bankruptcy treatises. The Collier treatise specifically states:

The goal of section 109(g) is to curb abuses of the bankruptcy system . . . In light of its purpose, it should not be applicable if the debtor successfully defended against or resolved the motion for relief from the stay or paid in full the creditor who moved for relief . . . Certainly, the purpose of preventing abusive refilings is not served when the motion for relief and the dismissal are totally unrelated.

2010 WL 4272915 at *6-7 (Bankr. N.D. Iowa. 2010) (citations omitted). This analysis, and the corresponding caselaw, makes clear that the pending motion approach is designed to create an exception in cases where the motion for relief from stay was resolved because it was withdrawn, denied, or an agreement was reached between the parties. Neither *In re Richter* nor the cases it cited dealt with situations where a motion for relief from stay was *granted*, the Debtor voluntarily dismissed the case because relief from stay was granted, and subsequently wants to file an additional case specifically to delay or hinder the creditor who obtained relief from stay.

The analysis in *In re Richter* leads this Court to conclude that the "pending motion"

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CONT...

Suzanne Berry

Chapter 13

approach is not really a separate approach, but simply, a subset of either the casual connection approach or the discretionary approach. The Court notes that this approach is not even mentioned in some discussions of the varying interpretations. For example, GINSBERG & MARTIN ON BANKRUPTCY § 3.02 [5th ed. 2019] states the following:

Courts are divided on the application of Section 109(g). There are three primary approaches. The majority approach is the "mandatory" approach. Under this approach, if a debtor requests and obtains a voluntary dismissal after a party moved for relief from stay, that person is not eligible for bankruptcy relief in the 180 days after dismissal, with no further inquiry needed. The "causal connection" approach requires a judicial determination of the causal relationship between the two subsections of 109(g). The "discretionary" approach endorses the mandatory approach but authorizes the court to exercise discretion when necessary to achieve justice.

[footnotes omitted].

Additionally, the Court finds the holistic, discretionary approach to be unpersuasive. The case primarily cited in support of the discretionary approach, *In re Luna*, 122 B.R. 575 (B.A.P. 9th Cir. 1991), contains the following as the entirety of its legal analysis:

We decline to follow the line of authority which requires mandatory application of section 109(g)(2). Mechanical application of section 109(g)(2) would reward Home Savings for acting in bad faith and punish Luna for acting in good faith. Accordingly, because legislative enactments should never be construed as establishing statutory schemes that are illogical, unjust, or capricious", we conclude that the bankruptcy court properly declined to apply section 109(g)(2) to Luna's second bankruptcy petition.

122 B.R. at 577. First, the Court notes that the factual situation presented in *In re Luna* is very unique and not analogous to this situation. Second, this Court believes that the approach in *In re Luna* is precluded by *Law v. Siegel*, 134 S. Ct. 1188 (2014).

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CONT... **Suzanne Berry**

Chapter 13

The Bankruptcy Appellate Panel's subsequent remarks in support of *In re Luna* make this more clear: "Section 109(g)(2) is not jurisdictional in nature and, therefore, the bankruptcy court has discretion to suspend the application of the statute and not dismiss a debtor's case under certain circumstances." *In re Leafly*, 479 B.R. 545 (B.A.P. 9th Cir. 2012). After *Law v. Siegel*, however, this Court does not believe it has authority to suspend a statute that does not provide for use of discretion.

As has been noted in this ruling, the majority approach to interpreting 11 U.S.C. § 109(g)(2) is to conclude that its application is mandatory. While some courts, even after *Siegel*, continue to follow the causal relationship approach, this Court need not choose between the two approaches because neither would result in a ruling favorable to Debtor. The other two approaches, the "pending motion" approach and the "discretionary" approach, are not supported by any recent caselaw and are unpersuasive.

TENTATIVE RULING

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Suzanne Berry

Represented By
Christopher Hewitt

Movant(s):

Suzanne Berry

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

CONT... Suzanne Berry

Chapter 13

**United States Bankruptcy Court
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Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:14-19520 Jeffrey B Jordan

Chapter 13

#39.00 CONT Trustee's Motion to Dismiss Case

From: 10/3/19

EH ____

Docket 71

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey B Jordan

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:15-10879 Luke Reynolds

Chapter 13

#40.00 Trustee's Motion to Dismiss Case

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luke Reynolds

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:15-14501 Vonetta M Mays

Chapter 13

#41.00 Trustee's Motion to Dismiss Case

EH__

Docket 215

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vonetta M Mays

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:16-13030 Richard Hill Lindsay and Laura Lee Lindsay

Chapter 13

#42.00 Trustee's Motion to Dismiss Case

EH ____

Docket 139

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Hill Lindsay

Represented By
Emilia N McAfee

Joint Debtor(s):

Laura Lee Lindsay

Represented By
Emilia N McAfee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:16-16946 Elliott Howard Blue, Jr and Yvette Blue

Chapter 13

#43.00 CONT Trustee's Motion to Dismiss Case

From: 10/17/19

EH__

Docket 104

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elliott Howard Blue Jr

Represented By
Michael E Clark
Barry E Borowitz

Joint Debtor(s):

Yvette Blue

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:16-21234 Frank A Horzen and Barbara A Horzen

Chapter 13

#44.00 Trustee's Motion to Dismiss Case

EH ____

Docket 136

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/29/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank A Horzen

Represented By
Paul Y Lee

Joint Debtor(s):

Barbara A Horzen

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:16-21236 Ronald A Waters and Trisha Waters

Chapter 13

#45.00 Trustee's Motion to Dismiss Case

EH ____

Docket 84

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/29/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ronald A Waters

Represented By
Paul Y Lee

Joint Debtor(s):

Trisha Waters

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:17-14292 Lubna Shiraz Ahmed

Chapter 13

#46.00 CONT Trustee's Motion to Dismiss Case

From: 10/17/19

EH__

Docket 91

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lubna Shiraz Ahmed

Represented By
Joshua L Sternberg

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:17-19614 Alfredo Manzo Arrieta and Mayte Hernandez- Arrieta

Chapter 13

#47.00 Trustee's Motion to Dismiss Case

EH ____

Docket 111

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfredo Manzo Arrieta

Represented By
Andy C Warshaw

Joint Debtor(s):

Mayte Hernandez- Arrieta

Represented By
Andy C Warshaw

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:18-15026 Joe R Garcia

Chapter 13

#48.00 Trustee's Motion to Dismiss Case

EH__

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joe R Garcia

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:18-16643 Jesus N Aguilera

Chapter 13

#49.00 Trustee's Motion to Dismiss Case

EH ____

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus N Aguilera

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:18-18158 Jorge Leon and Alicia Leon

Chapter 13

#50.00 Trustee's Motion to Dismiss Case

EH ____

Docket 45

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Leon

Represented By
Paul Y Lee

Joint Debtor(s):

Alicia Leon

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:18-20547 Tawnie L Vanderham

Chapter 13

#51.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19, 10/3/19

EH ____

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tawnie L Vanderham

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:19-10001 Jose Diaz and Betty Diaz

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Diaz

Represented By
Nima S Vokshori

Joint Debtor(s):

Betty Diaz

Represented By
Nima S Vokshori

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:19-10071 John M. Betham and Dana M. Betham

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 26

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John M. Betham

Represented By
Christopher J Langley

Joint Debtor(s):

Dana M. Betham

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:19-10934 Jorge Ramirez and Evelia Ramirez

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH__

Docket 31

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Ramirez

Represented By
Christopher J Langley

Joint Debtor(s):

Evelia Ramirez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:19-12186 Roshanda Jeannen Dodds

Chapter 13

#55.00 CONT Trustee's Motion to Dismiss Case

From: 9/19/19, 10/17/19

EH ____

Docket 31

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roshanda Jeannen Dodds

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:16-15119 Rodolfo Domingo Plado and Esmenia Rivera Plado

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 85

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/29/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rodolfo Domingo Plado

Represented By
Dana Travis

Joint Debtor(s):

Esmenia Rivera Plado

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:17-15524 Thanaa Victor Fransis

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 57

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Thanaa Victor Fransis

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:19-14735 Trinen Arniese Pratt

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Trinen Arniese Pratt

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:14-11597 Taylor J. Bretz

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 240

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Taylor J. Bretz

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:15-14835 Bennea Cynthia Travis

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH__

Docket 106

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bennea Cynthia Travis

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:17-15730 James Whitby and Patricia Lineweaver

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

*** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
10/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James Whitby

Represented By
Christopher Hewitt

Joint Debtor(s):

Patricia Lineweaver

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, October 31, 2019

Hearing Room 303

11:01 AM

6:19-11911 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH__

Docket 59

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, November 4, 2019

Hearing Room 303

1:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01319 DIAMOND v. Empire Partners, Inc., a California Corporation et

#1.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14, 4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14, 01/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15, 12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16, 10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17, 11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/27/19, 3/27/19, 5/8/19, 7/10/19, Advanced From: 9/18/19, 9/10/19

EH____

Docket 1

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I. Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

Jonathan A Loeb

Jeffrey Rosenfeld

P Sabin Willett

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, November 4, 2019

Hearing Room 303

1:00 PM

CONT... Empire Land, LLC

Chapter 7

James P Previti

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Larry Day

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Neil M Miller

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

Paul Roman

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld
P Sabin Willett

O'Melveny & Myers, LLP

Represented By
Howard Steinberg
P Sabin Willett

Peter T. Healy

Represented By
Howard Steinberg
P Sabin Willett

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Peter M Bransten
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder
Cynthia M Cohen
Roye Zur
Alexander J Suarez

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, November 4, 2019

Hearing Room 303

1:00 PM

CONT... Empire Land, LLC

Chapter 7

Trustee(s):

Richard K Diamond (TR)

Represented By

Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, November 4, 2019

Hearing Room 303

1:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:09-01235 DIAMOND v. Empire Partners, Inc., a California Corporation et

#2.00 CONT Status Conference re complaint
HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/13/19,
3/27/19, 5/8/19, 7/10/19, 9/18/19

EH____

Docket 1

Party Information

Debtor(s):

Empire Land, LLC

Represented By

James Stang

Robert M Saunders

Michael I. Gottfried

----- O'melveny & Myers

Dean A Ziehl

Jonathan A Loeb

P Sabin Willett

Richard K Diamond (TR)

Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By

David Loughnot

Jonathan A Loeb

Jeffrey Rosenfeld

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, November 4, 2019

Hearing Room 303

1:00 PM

CONT... **Empire Land, LLC**
DOES 1 through 100, inclusive

Pro Se

Chapter 7

Plaintiff(s):

RICHARD K. DIAMOND

Represented By

Richard S Berger - SUSPENDED -
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder
John P. Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur
Alexander J Suarez

Trustee(s):

Richard K Diamond (TR)

Represented By

Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein
Paul Hastings
Roye Zur
Amy Evans
Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, November 4, 2019

Hearing Room 303

1:00 PM

6:08-14592 Empire Land, LLC

Chapter 7

Adv#: 6:10-01329 DIAMOND v. Empire Partners, Inc., a California Corporation et

#3.00 CONT Status Conference re complaint
(Defendant - Empire Partners, Inc) HOLDING DATE

From: 3/6/13, 6/5/13, 9/11/13, 11/13/13,12/18/13, 2/5/14, 3/12/14, 4/9/14,
4/16/14, 5/21/14, 8/27/14, 8/28/14, 9/10/14, 9/29/14, 11/10/14, 11/19/14,
1/21/15, 1/28/15, 2/19/15, 3/24/15, 5/28/15, 6/23/15, 8/12/15, 9/18/15, 10/6/15,
12/8/15, 1/20/16, 2/18/16, 3/23/16, 4/5/16, 4/13/16, 4/22/16, 6/6/16, 7/25/16,
10/3/16, 11/14/16, 1/23/17, 2/27/17, 4/24/17, 6/26/17, 8/2/17, 10/25/17,
11/27/17, 3/5/18, 6/11/18, 10/24/18, 12/5/18, 12/19/18, 1/16/19, 3/13/27,
3/27/19, 5/8/19, 7/10/19, 9/18/19

EH____

Docket 1

Party Information

Debtor(s):

Empire Land, LLC

Represented By
James Stang
Robert M Saunders
Michael I. Gottfried
----- O'melveny & Myers
Dean A Ziehl
Jonathan A Loeb
P Sabin Willett
Richard K Diamond (TR)
Jeffrey Rosenfeld

Defendant(s):

Empire Partners, Inc., a California

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

James P Previti

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, November 4, 2019

Hearing Room 303

1:00 PM

CONT... Empire Land, LLC

Chapter 7

Previti Realty Fund, L.P.

Jonathan A Loeb
Jeffrey Rosenfeld

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

The James Previti Family Trust

Represented By
Jonathan A Loeb
Jeffrey Rosenfeld

Plaintiff(s):

RICHARD K DIAMOND

Represented By
Richard S Berger - SUSPENDED -
Michael I. Gottfried
Aleksandra Zimonjic
Monica Rieder
John P. Reitman
Peter M Bransten
Cynthia M Cohen
Roye Zur
Alexander J Suarez

Trustee(s):

Richard K Diamond (TR)

Represented By
Michael I. Gottfried
Richard S Berger - SUSPENDED -
Rodger M. Landau
Richard K Diamond
Peter M Bransten
Aleksandra Zimonjic
Monica Rieder
Lisa N Nobles
Peter J. Gurfein
Paul Hastings
Roye Zur
Amy Evans

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, November 4, 2019

Hearing Room 303

1:00 PM

CONT...

Empire Land, LLC

Best Best & Krieger
Franklin C Adams
Thomas J Eastmond

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 5, 2019

Hearing Room 303

11:00 AM

6:15-19432 Kirk Eugene Frantz and Mary Elizabeth Frantz

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 152079 Rio Vista Road, Big River, CA 92242

MOVANT: BAYVIEW LOAN SERVICING LLC

From: 5/28/19, 6/4/19, 7/9/19, 7/30/19; 9/10/19

EH__

Docket 155

***** VACATED *** REASON: ORDER ENTERED 11/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Eugene Frantz

Represented By
Jenny L Doling
Summer M Shaw

Joint Debtor(s):

Mary Elizabeth Frantz

Represented By
Jenny L Doling
Summer M Shaw

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney
Edward G Schloss

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 5, 2019

Hearing Room 303

11:00 AM

6:18-17878 Sumanta Chakravarti and Madhumita Chakravarti

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Toyota Camry

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH ____

Docket 49

Tentative Ruling:

11/5/2019

Service is Proper
Opposition: Yes

11 U.S.C. § 365(p)(1) provides for termination of the automatic stay as a matter of law if a lease of personal property is not timely assumed. 11 U.S.C. § 365(d)(2) imposes a deadline of plan confirmation to assume a personal property lease in a Chapter 13 case. Here, Debtor's plan not having provided for assumption of the underlying lease, the automatic stay has terminated as a matter of law. The Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sumanta Chakravarti

Represented By
Paul Y Lee

Joint Debtor(s):

Madhumita Chakravarti

Represented By
Paul Y Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 5, 2019

Hearing Room 303

11:00 AM

CONT... Sumanta Chakravarti and Madhumita Chakravarti

Chapter 13

Movant(s):

Toyota Motor Credit Corporation,

Represented By
Austin P Nagel

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 5, 2019

Hearing Room 303

11:00 AM

6:18-19704 Leticia Arthur

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Toyota Rav4 .

MOVANT: TOYOTA MOTOR CREDIT CORPORATION

EH__

Docket 25

Tentative Ruling:

11/5/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to the terms of the adequate protection agreement filed by the parties on November 1, 2019, as docket number 29.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Leticia Arthur

Represented By
Donald J Gagnon III

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 5, 2019

Hearing Room 303

11:00 AM

6:18-20176 Garry Kenneth Frazier

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 21851 Mohican Ave. Apple Valley CA 92307

MOVANT: FREEDOM MORTGAGE CORPORATION

EH ____

Docket 37

Tentative Ruling:

11/5/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears and adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Garry Kenneth Frazier

Represented By
John F Brady

Movant(s):

Freedom Mortgage Corporation

Represented By
Christina J Khil
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 5, 2019

Hearing Room 303

11:00 AM

6:19-11933 Maxine Tann

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 16260 Via Corto E. Desert Hot Springs, California 92240 . (Mantovani, Bonni)

MOVANT: CHAMPION MORTGAGE COMPANY

EH__

Docket 23

***** VACATED *** REASON: ORDER ENTERED 10/31/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maxine Tann

Represented By
Christopher Hewitt

Movant(s):

Champion Mortgage Company., et al

Represented By
Bonni S Mantovani

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 5, 2019

Hearing Room 303

11:00 AM

6:19-15460 Frank Rubin Carrillo

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Volkswagen Passat 1.8T S Sedan 4D

MOVANT: EXETER FINANCE, LLC

EH__

Docket 29

Tentative Ruling:

11/5/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief from stay pursuant to 11 U.S.C. § 362(d)(2) for lack of cause shown. Specifically, the Court notes that the motion does not provide any evidence of the fair market value of the subject collateral. GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Frank Rubin Carrillo

Represented By
Daniel King

Movant(s):

Exeter Finance, LLC

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 5, 2019

Hearing Room 303

11:00 AM

CONT... Frank Rubin Carrillo

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 5, 2019

Hearing Room 303

11:00 AM

6:19-17224 Jose Luis Hernandez

Chapter 7

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Chevrolet Silverado 1500, VIN: 3GCUKREC9HG169170

MOVANT: AMERICREDIT FINANCIAL SERVICES, INC

EH ____

Docket 11

Tentative Ruling:

11/05/2019

Service is Proper

Opposition: None

11 U.S.C. § 362(h)(1)(A) provides:

(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) –

(A) to file time any statement of intention required under section 521(a)(2) with respect to such personal property *or to indicate in such statement that the debtor will either* surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as

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CONT... **Jose Luis Hernandez**
 applicable;

Chapter 7

(emphasis added). Here, Debtor's statement of intention appears to select "ride-through," which is not one of the available options identified in § 362(h)(1)(A) and is not permitted in the Ninth Circuit. *In re Dumont*, 581 F.3d 1104 (9th Cir. 2009). Therefore, the automatic stay has terminated as a matter of law. The Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jose Luis Hernandez

Pro Se

Movant(s):

AmeriCredit Financial Services, Inc.

Represented By
Jennifer H Wang

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:19-17393 Gabriel Perez and Janyn Perez

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3464 Harrison Avenue Lake Elsinore, California 92530

MOVANT: CALIFORNIA HOUSING FINANCE AGENCY

EH ____

Docket 14

Tentative Ruling:

11/05/2019

Service is Proper
Opposition: Yes

Movant to confirm arrears have been cured. The Court also notes that, based upon the amended schedules of Debtor, filed October 21, 2019, the only evidence before the Court regarding the fair market value of the subject property indicates that there is a significant equity cushion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gabriel Perez

Represented By
Glen J Biondi

Joint Debtor(s):

Janyn Perez

Represented By
Glen J Biondi

Movant(s):

California Housing Finance Agency

Represented By

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CONT... Gabriel Perez and Janyn Perez

Chapter 7

Anna Landa

Trustee(s):

Steven M Speier (TR)

Pro Se

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6:19-17944 Adolfo Gonzales and Elda Gonzales

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Dodge Ram, VIN 1C6RR6FTXFS530093

MOVANT: SCHOOLSFIRST FEDERAL CREDIT UNION

EH__

Docket 16

Tentative Ruling:

11/5/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief pursuant to § 362(d)(2) because the motion does not allege any grounds for relief. GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Adolfo Gonzales

Represented By
Christopher J Langley

Joint Debtor(s):

Elda Gonzales

Represented By
Christopher J Langley

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CONT... Adolfo Gonzales and Elda Gonzales

Chapter 7

Movant(s):

SCHOOLSFIRST FEDERAL

Represented By
Paul V Reza

Trustee(s):

Lynda T. Bui (TR)

Pro Se

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6:19-18850 Sonia Salguero

Chapter 13

#10.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property

MOVANT: SONIA SALGUERO

EH ____

Docket 15

Tentative Ruling:

11/5/2019

Service is Improper
Opposition: None

The Court notes that the proof of service included in the original motion identifies a service date, in four different locations, of October 1, 2019. This date, however, is prepetition and is, therefore, not a possible service. The supplemental proof of service filed by Debtor is signed on October 28, 2019, but for two of the three sections identifies a service date of October 21, 2019. In the third section, however, a service date of September 23, 2019, is listed. Debtor's counsel to address the service deficiencies.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sonia Salguero

Represented By
Christopher J Langley

Movant(s):

Sonia Salguero

Represented By
Christopher J Langley

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CONT... Sonia Salguero

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-18864 Rebecca Moore

Chapter 13

#11.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 23093 Canyon Hills Drive, Corona, CA

MOVANT: REBECCA MOORE

EH ____

Docket 12

Tentative Ruling:

11/5/2019

Service is Improper
Opposition: None

Judge Houle's self-calendaring procedures require that motions to continue the automatic stay which are set on shortened notice must be served on secured creditors pursuant to FED. R. BANKR. P. Rule 7004. Here, it does not appear that either of the secured creditors, Mr. Cooper and California Meadows HOA, were served pursuant to Rule 7004. The Court also notes that the HOA is not identified on the first page of the motion or on section 1 of page 3. Debtor's counsel to address these service deficiencies.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Rebecca Moore

Represented By
Edward T Weber

Movant(s):

Rebecca Moore

Represented By
Edward T Weber

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CONT... Rebecca Moore

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-18876 Pablo Cornejo

Chapter 13

#12.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 31945 Daniel Way, Temecula, CA 92591

MOVANT: PABLO CORNEJO

EH ____

Docket 12

Tentative Ruling:

11/5/2019

Service: Proper
Opposition: None

Debtor had three prior cases dismissed in the previous calendar year. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(C)(i)(I), the instant bankruptcy case is presumed to have been filed in bad faith. Pursuant to 11 U.S.C. § 362(c)(3)(C), the Court requires "clear and convincing" evidence to rebut the presumption of bad faith. Here, Debtor has not provided any meaningful evidence regarding a change in circumstance, only saying that he does not "anticipate having any issues in this present case." Because this evidence fails to meet the heightened standard imposed by § 362(c)(3)(C), the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Pablo Cornejo

Represented By
Daniel King

Movant(s):

Pablo Cornejo

Represented By
Daniel King

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CONT... Pablo Cornejo

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-19120 Heinrich Franz Brinkmann

Chapter 13

#13.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 27653 Bottle Brush Way Murrieta, CA 92562-2546

MOVANT: HEINRICH FRANZ BRINKMANN

EH ____

Docket 12

Tentative Ruling:

11/5/2019

Service is Improper

Opposition: None

Judge Houle's self-calendaring procedures require that motions to continue the automatic stay which are set on shortened notice must be served on secured creditors pursuant to FED. R. BANKR. P. Rule 7004. Here, it does not appear that Green Ranch Community Association was served pursuant to Rule 7004. Additionally, the Court notes that while it appears the motion was served pursuant to Rule 7004 on the holder of the first deed of trust, that entity is not actually listed in the body of the motion. Instead, it appears that Debtor listed the loan servicer in the body of the motion, while not serving the loan servicer pursuant to Rule 7004. For these reasons, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Movant(s):

Heinrich Franz Brinkmann

Represented By

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CONT... Heinrich Franz Brinkmann

Stephen H Darrow

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Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-17653 Jessica Pena Sung

Chapter 7

#1.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 27

Tentative Ruling:

11/06/2019

Opposition: None

Service: Proper

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$418.21

Trustee Expenses: \$23.55

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jessica Pena Sung

Represented By
Paul Y Lee

Trustee(s):

Charles W Daff (TR)

Pro Se

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11:00 AM

6:18-13767 Jose Heriberto Alvarado

Chapter 7

#2.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 71

Tentative Ruling:

TENTATIVE RULING

11/06/2019

Opposition: None

Service: Proper

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$2,616.50

Trustee Expenses: \$116.10

Attorney Fees: \$10,029.00

Attorney Costs: \$281.76

Accountant Fees: \$1,428.00

Accountant Costs: \$263.50

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose Heriberto Alvarado

Represented By
Robert W Stewart Jr

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CONT... Jose Heriberto Alvarado

Chapter 7

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Brandon J Iskander
Leonard M Shulman

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11:00 AM

6:18-13662 Macario Q. Jaime and Bertha E. Jaime

Chapter 7

#3.00 Notice of Trustee's Final Report and Applications for Compensation

EH ____

Docket 60

Tentative Ruling:

TENTATIVE RULING

11/06/2019

Opposition: None

Service: Proper

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$4,550.00

Trustee Expenses: \$213.07

Attorney Fees: \$7,241.00

Attorney Costs: \$614.00

Accountant Fees: \$2,562.00

Accountant Costs: \$392.90

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Macario Q. Jaime

Represented By
Lazaro E Fernandez

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CONT... Macario Q. Jaime and Bertha E. Jaime

Chapter 7

Joint Debtor(s):

Bertha E. Jaime

Represented By
Lazaro E Fernandez

Trustee(s):

Charles W Daff (TR)

Represented By
Brandon J Iskander
Lynda T Bui

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6:18-10208 Rolando Carlos Reyes and Florencia Aquino Reyes

Chapter 7

#4.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 46

Tentative Ruling:

TENTATIVE RULING

11/06/2019

Opposition: None

Service: Proper

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$4,250.00

Trustee Expenses: \$120.40

Clerk of the Court Cost: \$350.00

Attorney Fees: \$18,992.50

Attorney Costs: \$618.14

As to the accounting fees, they appear excessive given that the task is essential to preparing state and federal tax return for the year. Accountant to address concern and may supplement its application.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Rolando Carlos Reyes

Represented By
Walter Scott

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CONT... Rolando Carlos Reyes and Florencia Aquino Reyes

Chapter 7

Joint Debtor(s):

Florencia Aquino Reyes

Represented By
Walter Scott

Trustee(s):

John P Pringle (TR)

Represented By
Lynda T Bui
Brandon J Iskander
Shulman Hodges & Bastian LLP
Leonard M Shulman

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6:15-17611 Jose Elenilson Ortiz and Veronica Ortiz

Chapter 7

#5.00 Motion to Avoid Lien with Capital One Bank USA NA

EH __

Docket 28

Tentative Ruling:

TENTATIVE RULING

11/06/19

Thus, the Court is inclined to GRANT the motion, noting the lack of opposition.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose Elenilson Ortiz

Represented By
Bridget Howze

Joint Debtor(s):

Veronica Ortiz

Represented By
Bridget Howze

Movant(s):

Jose Elenilson Ortiz

Represented By
Bridget Howze

Veronica Ortiz

Represented By
Bridget Howze

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CONT... Jose Elenilson Ortiz and Veronica Ortiz

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Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

#6.00 CONT Status Conference RE: [1] Adversary case 6:13-ap-01171. Complaint by Charles Edward Schrader against Narinder Sangha . willful and malicious injury))

From: 4/17/19, 5/22/19, 8/28/19

Also #7

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Donald Reid
Charity J Manee

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

#7.00 Motion for Sanctions Against Plaintiff Charles Edward Schrader for Bad Faith Litigation Conduct

Also #6

EH ____

Docket 327

Tentative Ruling:

11/06/19

BACKGROUND:

On April 18, 2013, Narinder Sangha ("Debtor") filed for Chapter 7 voluntary petition (13-16964). On April 25, 2013, Charles Edward Schrader ("Plaintiff") filed an adversary case against the Debtor, seeking non-dischargeability of judgment debt.

Plaintiff had previously been awarded a default judgment of \$1,396,633.40 in a Superior Court ("State Court Complaint") on June 2, 2011. Based on the State Court complaint was filed on October 13, 2009. Plaintiff alleged that Debtor had made defamatory statements—Debtor called Plaintiff physical and emotionally abusive, during and after their sexual relationship ended, in a statement made to San Jose Fire Department, which was conducting a background check on Plaintiff for employment—about him with malice and the intent to harm his good name and reputation. Because Debtor caused him willful and malicious injury, pursuant to §523(a)(6), Plaintiff argues that the judgment debt should not be allegedly discharged.

Debtor answered Plaintiff's complaint by denying he made any defamatory statements concerning plaintiff with malice, intent, or both to injure Plaintiff's reputation. Debtor claims that the State Court Complaint were not litigated because of the legal malfeasance of Debtor's former counsel, Christopher A. Leuterio, who was unaware of any deadlines, hearings, or responses required from the Debtor. If it were not for Debtor's former counsel, Debtor alleges the Superior Court in the State Court Complaint

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CONT...

Narinder Sangha

Chapter 7

would have evidence of Plaintiff committing domestic violence against the Debtor, including emotional abuse and harassing e-mails, text message, and phone calls.

Prior to the filing of the adversary proceeding, Debtor was granted a restraining order ("RO") by the Superior Court after a finding of good cause on August 12, 2009, and it was to remain in effect until February 12, 2010. On May 28, 2010, Plaintiff appealed the RO, asserting that the lower court's refusal of his request to submit more documents violated his due process. The appellate court ruled against Plaintiff, finding that no due process violation occurred, and the appellate court affirmed the RO.

After the default judgment was given for the State Court Complaint, Debtor claims to have fired his previous counsel, filed suit against his prior counsel for legal malfeasance, hired a more competent counsel, and attempted to vacate the judgment on the State Court Complaint. However, the motion to vacate the judgment was denied.

Now, as part of the adversary proceeding, Debtor files this motion because he alleges that Plaintiff engaged in improper and bad-faith litigation conduct with third-party witnesses to prevent compliance with lawful subpoena. In 2019, Debtor served lawful subpoenas on the City of San Jose and Associated International, the entities that Plaintiff alleges Debtor made defamatory statements to. Debtor contends that after serving the lawful subpoenas to the City of San Jose and Associated International, Plaintiff threatened the City with a multi-million-dollar lawsuit if it complied with said subpoena. (Dkt. No. 327, Ex. 3, Pg. 18).

The Debtor alleges, due to this threat, the City of San Jose objected to the subpoena, and decided it will not release the documents asked for without an additional court order addressing Plaintiff's assertion of his right to privacy. *Id.* at 27.

Plaintiff responds by claiming that his assertion of his privacy rights to the city was perfectly legal: "[t]here is nothing unlawful about asserting one's privacy interests, and [Debtor] provides no legal authority for the proposition that doing so constitutes 'improper and bad faith litigation conduct' so egregious as to justify [FRCP] 37[,] terminating sanctions." (Dkt. No. 329, Pg. 3). In the alternative, Plaintiff states that if asserting one's privacy right is unlawful, then Plaintiff should pay for the cost of Debtor's motion to compel, not to terminate the case. *Id.* at 6.

DISCUSSION:

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CONT... Narinder Sangha

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In the motion for terminating sanctions, the Court must consider "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the party seeking sanctions; (4) the public policy favoring disposition of cases on their merits, and (5) the availability of less drastic sanctions. *Wanderer v. Johnston*, 910 F.2d 652, 656 (9th Cir. 1990).

In addressing the first two factors, Courts have noted that the public's interest in prompt resolution of litigation and the Court's need to manage its docket always favor dismissal. *SEC v. Wu*, 2016 U.S. Dist. Lexis 126695, *5 (N. D. Cal. 2016). Similar in this case, litigation between the two parties have been on-going since April 25, 2013. Countless motions, objections, and replies have been filed. The docket is at number 334. Much of the delay cannot be attributed to improper action by either party. Each party, for the most part, has followed the Courts orders and procedures.

The Court does not believe that there is a risk of prejudice to the party seeking sanctions, the third factor. The Debtor would suffer prejudice if the Plaintiff's action wrongfully impairs his ability to go to trial or threatens to interfere with the rightful decision of the case. *Adrian Int'l Corp. v. Lewis & Co.*, 913 F.2d 1406 (9th Cir. 1990). The Plaintiff's action, to assert his privacy rights, did not prejudice the Debtor. The City of San Jose states that it would follow the subpoena if an additional court order, addressing Plaintiff's right to privacy, is provided. Debtor had ample time to file the motion to compel. Nor does Plaintiff's assertion of the right to privacy interfere with a rightful decision of the case. If a motion to compel is granted, City of San Jose will release the subpoenaed documents and the Court would make a decision based on multiple factors, including those documents.

The fourth factor clearly weighs against the sanction. Furthermore, the fifth factor need not be addressed because the factors weigh heavily in denying the motion. (*United States use of Wiltec Guam, Inc. v. Kahaluu Constr. Co.*, 857 F.2d 600 (9th Cir. 1988) (stating, generally, a court must consider fewer alternative sanctions and discuss them before actually dismissing the case.)

Tentative Ruling

Based on the foregoing reasons, the Court's tentative ruling is to DENY the

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CONT... Narinder Sangha
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APPEARANCES REQUIRED.

Party Information

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Donald Reid
Charity J Manee

Movant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Donald Reid
Charity J Manee

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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2:00 PM

6:17-15301 Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

#8.00 CONT Chapter 7 Trustee's Motion for Order Approving Compromise of Controversy under Rule 9019

From: 9/18/19, 10/16/19

EH ____

Docket 24

Tentative Ruling:

9/18/19

BACKGROUND

On June 24, 2017, Jaspar & Brenda Stevens ("Debtors") filed a Chapter 7 voluntary petition. On October 10, 2017, Debtors received a discharge, and the case was closed the next day.

On July 24, 2019, UST filed a motion to reopen the case so that Trustee could investigate a proposed settlement of a lawsuit; the case was reopened the same day. On August 16, 2019, Trustee filed a motion to approve compromise. The compromise relates to the settlement of the state court litigation initially commenced by Debtors against Ocwen Loan Servicing, LLC. The material terms of the compromise are that Trustee shall execute a request for dismissal of the state court litigation in return for \$50,000.

On August 28, 2019, Debtors filed an opposition to the compromise motion. Debtors argue that the state court lawsuit was properly abandoned upon the conclusion of Debtors' bankruptcy case, and that, as a result, the claims are not property of the estate

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CONT... **Jasper Stevens and Brenda Louise Murray Stevens** **Chapter 7**

and cannot be compromised by Trustee. On September 10, 2019, Trustee filed a reply arguing that the state court litigation was not abandoned.

The relevant material facts are not in dispute. Debtors concede that the litigation was not disclosed on their schedules. Trustee concedes that the litigation was disclosed on the statement of financial affairs. The parties dispute revolves around the interpretation of the word "scheduled" in 11 U.S.C. § 554(c).

DISCUSSION

11 U.S.C. § 554(c) states: "Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title." "Unless the court orders otherwise, property of the estate that is not abandoned under this section and that is not administered in the case remains property of the estate." 11 U.S.C. § 554(d). 11 U.S.C. § 521(a)(1) states

- (a) The debtor shall
 - (1) file
 - (A) a list of creditors; and
 - (B) unless the court orders otherwise –
 - (i) a schedule of assets and liabilities;
 - (ii) a schedule of current income and current expenditures
 - (iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate –

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Jasper Stevens and Brenda Louise Murray Stevens

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(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

(II) if not attorney is no indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition

Debtors primarily rely upon *In re Hill*, 195 B.R. 147 (Bankr. D.N.M. 1996). Trustee

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implicitly concedes that *In re Hill* supports Debtors' position, but Trustee argues that "*In re Hill* relied on an erroneous statutory interpretation, went against policy and authority in relieving debtors of their obligations and consequences, and was essentially disposed of on other grounds that section 554(c), and should therefore not be followed by this Court." [Dkt. No. 30, pg. 7, lines 22-24]. *In re Hill* concluded that:

The language of § 521 itself supports a broader reading of "scheduled" in § 554(c), because the paragraph which follows paragraph § 521(1) makes a particular reference to "debtor's schedule of assets and liabilities." The use of this specific reference strongly suggests that the drafts of the Code will say "schedule of assets and liabilities" when that narrow requirement is intended, and that a reference to § 521(1) is a reference to § 521(1) as a whole.

Id. at 150; *see also U.S. ex rel. Fortenberry v. Holloway Group, Inc.*, 515 B.R. 827 (W.D. Okla. 2014) ("In other words the Court finds that the 'scheduled' requirement in § 554(c) refers to all of the disclosures required in § 521(a)(1), including the debtor's statement of financial affairs.").

On the other hand, Trustee points to multiple cases from the Bankruptcy Appellate Panel which held that "[m]entioning an asset in the statement of financial affairs is not the same as scheduling it for purposes of abandonment under § 554(c)." *In re Pretscher-Johnson*, 2017 WL 2779977 at *5 (B.A.P. 9th Cir. 2017); *In re Kayne*, 453 B.R. 372 (B.A.P. 9th Cir. 2011) (same); *see also In re Fossey*, 119 B.R. 268 (D. Utah 1990) ("The case have held that the word 'scheduled' in § 554(c) refers to property listed in the debtor's Schedule of Assets and Liabilities."). While Debtor has provided a recent Bankruptcy Appellate Panel case which seems to backtrack from the Panel's earlier position to a degree, as noted by Trustee, the reasoning in *In re Tadayon*, 2019 WL 1923044 (B.A.P. 9th Cir. 2019) is less than clear, bordering on bizarre.

Noting that the majority of the caselaw on this issue favors the position of the Trustee, the Court is inclined to conclude that the listing of the pending lawsuit in the statement of financial affairs is inadequate to trigger a technical abandonment

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of that asset pursuant to 11 U.S.C. § 554(c). While the Court acknowledges that the drafting of § 554(c) is somewhat ambiguous given that the statute could refer to § 521(a)(1)(B)(i), instead of § 521(a)(1) generally, the use of the word "scheduled" must be interpreted in relation to the preparation of "schedules." Divorcing the verb "scheduled" from the noun "schedules" does not appear to be a reasonable approach to statutory interpretation, especially considering that in other sections, the Code includes the phrase "neither listed nor scheduled under section 521(a)(1)." 11 U.S.C. § 523(a)(3).

Turning to the compromise motion, FED. R. BANKR. P. Rule 9019 provides that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

The Ninth Circuit Court of Appeals have previously outlined the factors to be considered in approving a compromise pursuant to Rule 9019: (1) the probability of success in the litigation; (2) the difficulties to be encountered in the matter of collection; (3) the complexity, expense, inconvenience and delay of litigation; and (4) the interest of creditors with deference to their reasonable views. *See In re A&C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). The listed factors assist the Court in determining "the fairness, reasonableness and adequacy of a proposed settlement agreement." *Id.*

Here, the evidence before the Court is insufficient to assess the "fairness, reasonableness and adequacy" of the compromise. Specifically, the Court notes that the compromise motion does not include any meaningful detail regarding the nature of the state court litigation to be compromise, nor does the motion contain any description of the amount of damages sought in state court. Because of this absence of information, the Court is wholly unable to assess the reasonableness of the \$50,000 to be received by the bankruptcy estate.

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CONT... Jasper Stevens and Brenda Louise Murray Stevens

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TENTATIVE RULING

The Court is inclined to CONTINUE the matter for supplemental evidence as to the *A&C Properties* elements.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jasper Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Joint Debtor(s):

Brenda Louise Murray Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Movant(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

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6:19-10279 Thomas Mount

Chapter 7

Adv#: 6:19-01050 Baker et al v. Mount

#9.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01050. Complaint by Jonathan Baker, Baker Entertainment Group against Thomas Mount. Unlawful and Fraudulent Business Practice Cal. Bus. & Prof. Code § 17200. et seq. Nature of Suit: (62 (Dischargeability - 523(a)(2), 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)),(65 (Dischargeability - other)) (Cohen, Baruch)

From: 5/8/19, 6/5/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Thomas Mount

Represented By
Christopher Hewitt

Defendant(s):

Thomas Mount

Represented By
Donald Reid

Plaintiff(s):

Jonathan Baker

Represented By
Baruch C Cohen

Baker Entertainment Group

Represented By
Baruch C Cohen

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CONT... Thomas Mount

Chapter 7

Trustee(s):

Charles W Daff (TR)

Pro Se

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6:17-10724 Bausman and Company Incorporated

Chapter 7

Adv#: 6:19-01122 Whitmore v. Labor Commissioner of the State of California

#10.00 Status Conference RE: [1] Adversary case 6:19-ap-01122. Complaint by Robert S. Whitmore against Labor Commissioner of the State of California. (Charge To Estate \$350.00). Complaint to Avoid Preferential Transfer Pursuant to 11 U.S.C. § 547 (Attachments: # 1 Adversary Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Djang, Caroline)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bausman and Company Incorporated

Represented By
William A Smelko

Defendant(s):

Labor Commissioner of the State of

Represented By
Melvin Yee

Plaintiff(s):

Robert S. Whitmore

Represented By
Caroline Djang

Trustee(s):

Robert Whitmore (TR)

Represented By
Best Best & Krieger
Caroline Djang

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6:16-15813 John E. Tackett

Chapter 7

Adv#: 6:18-01138 Speier v. Conestoga Settlement Services, LLC et al

#11.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01138. Complaint by Steven M Speier against Conestoga Settlement Services, LLC, Conestoga International Holdings, LLC, Conestoga Trust, Provident Trust Group, LLC, De Leon & Washburh, P.C., Thomas Washburn, Hector De Leon, Jeff Converse, Michael Woods, Michael McDermott. (Charge To Estate). Complaint for: (1) Breach of Written Contract; (2) Rescission and Restitution for Fraud; (3) Money Had and Received; (4) Unjust Enrichment; (5) Fraud; (6) Negligent Representation; (7) Negligence; (8) Rescission and Restitution for Sale of Unqualified Securities [Cal. Corp. §25503]; (9) Damages for Sale of Unqualified Securities [Cal. Corp. §25503]; (10) Rescission: Securities: Misrepresentation [Cal. Corp. §25501]; (11) Damages: Securities: Misrepresentation [Cal. Corp. §25501]; (12) Contempt for Willful Violation of Automatic Stay Pursuant to 11 U.S.C. § 105; and (13) Elder Financial Abuse [Cal. Welf. & Inst. Code § 15600 et seq.] Nature of Suit: (14 (Recovery of money/property - other)) (Eastmond, Thomas)

From: 8/29/18, 11/28/18, 1/9/19, 4/10/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John E. Tackett

Represented By
Stefan R Pancer

Defendant(s):

Conestoga Settlement Services, LLC

Represented By
Charles Miller

Conestoga International Holdings,

Represented By

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John E. Tackett

Chapter 7

	Charles Miller
Conestoga Trust	Represented By Charles Miller
Provident Trust Group, LLC	Represented By Marshall J Hogan
De Leon & Washburh, P.C.	Represented By Jasmin Yang David D Samani
Thomas Washburn	Represented By Jasmin Yang David D Samani
Hector De Leon	Represented By Jasmin Yang David D Samani
Jeff Converse	Pro Se
Michael Woods	Pro Se
Michael McDermott	Pro Se

Joint Debtor(s):

Ellen O. Tackett	Represented By Stefan R Pancer
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Plaintiff(s):

Steven M Speier	Represented By Thomas J Eastmond Robert P Goe
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Trustee(s):

Steven M Speier (TR)	Represented By Robert P Goe Thomas J Eastmond
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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01114 David M. Goodrich, Chapter 11 Trustee v. The Blue Law Group, Inc, a

#12.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01114. Complaint by David M. Goodrich, Chapter 11 Trustee against The Blue Law Group, Inc, a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Werth, Steven)

From: 7/10/18, 2/27/19, 6/12/19, 8/28/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

The Blue Law Group, Inc, a

Represented By
Michael K Blue

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth
Mark S Horoupian

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian

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Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:16-01225 Cambridge Medical Funding Group II, LLC v. Allied Injury Management,

#13.00 CONT Status Conference Re: Complaint by Cambridge Medical Funding Group II, LLC against Allied Injury Management, Inc., John C. Larson. 02 - Other e.g. other actions that would have been brought in state court if unrelated to bankruptcy
HOLDING DATE

From: 11/1/16, 12/6/16, 1/31/17, 2/28/17, 3/28/17, 5/30/17, 8/29/17, 10/3/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19, 4/10/19, 6/12/19, 8/28/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

John C. Larson

Pro Se

Plaintiff(s):

Cambridge Medical Funding Group

Represented By
Kenneth Hennesay

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian

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Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:16-01279 Allied Injury Management, Inc. v. One Stop Multi-Specialty Medical Group

#14.00 CONT Status Conference RE: [1] Adversary case 6:16-ap-01279. Complaint by Allied Injury Management, Inc. against One Stop Multi-Specialty Medical Group & Therapy, Inc., One Stop Multi-Specialty Medical Group, Inc., Nor Cal Pain Management Medical Group, Inc.. (Charge To Estate). Complaint for (1) Breach of Contract; (2) Account Stated; and (3) Unjust Enrichment Nature of Suit: (14 (Recovery of money/property - other))

From: 1/24/17, 3/7/17, 4/25/17, 6/27/17, 7/11/17, 9/12/17, 11/14/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19, 4/10/19, 6/12/19, 8/28/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

One Stop Multi-Specialty Medical

Represented By
Maria K Pum
Maria C Armenta

One Stop Multi-Specialty Medical

Represented By
Maria K Pum
Maria C Armenta

Nor Cal Pain Management Medical

Represented By
Maria K Pum

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Chapter 11

Maria C Armenta

Plaintiff(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01109 David M. Goodrich, Chapter 11 Trustee v. Titanium Resource Company,

#15.00 CONT Status Conference Re: Complaint by David M. Goodrich, Chapter 11 Trustee against Titanium Resource Company, Inc., a California corporation. (Charge To Estate \$350.00). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers and Adversary Proceeding Cover Sheet Nature of Suit: 12 - Recovery of money/property - 547 - preference,13 Recovery of money/property - 548 fraudulent transfer

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19, 6/12/19, 8/28/19

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Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Titanium Resource Company, Inc., a

Represented By
Alan W Forsley

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01110 David M. Goodrich, Chapter 11 Trustee v. Larson, D.C., an individual

#16.00 CONT Status Conference Re: Complaint by David M. Goodrich, Chapter 11 Trustee against John Larson, D.C., an individual. (Charge To Estate). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers, Avoidance of Improper Distributions, and Unjust Enrichment and Adversary Proceeding Cover Sheet Nature of Suit: 12 - Recovery of money/property - 547 preference, 13- Recovery of money/property - 548 fraudulent transfer

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19, 6/12/19, 8/28/19

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Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

John Larson, D.C., an individual

Represented By
Alan W Forsley

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian

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Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01111 David M. Goodrich, Chapter 11 Trustee v. American Express Company, a

#17.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01111. Complaint by David M. Goodrich, Chapter 11 Trustee against American Express Company, a New York Corporation dba American Express, American Express Travel Related Services, Inc., a New York corporation dba American Express. (Charge To Estate). Complaint for Avoidance of Preferential and Fraudulent Transfers, Recovery of Transferred Property or Value Thereof, Preservation of Avoided Transfers and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Werth, Steven)

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19, 6/12/19, 8/28/19

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Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

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Mark S Horoupian

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01111 David M. Goodrich, Chapter 11 Trustee v. American Express Company, a

#18.00 CONT Status Conference RE: **3rd Party Complaint** [4] Answer to Complaint and Affirmative Defenses to Plaintiff's Complaint, and Third-Party Claim Against John C. Larson, Third-Party Complaint by American Express Company, a New York Corporation dba American Express, American Express Travel Related Services, Inc., a New York corporation dba American Express against John C. Larson

From: 8/21/18, 10/30/18, 1/15/19, 4/10/19, 6/12/19, 8/28/19

Also #17

EH__

Docket 4

***** VACATED *** REASON: ORDER DISMISSING ADVERSARY
PROCEEDING FILED 9/30/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth
Mark S Horoupan

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CONT... Allied Injury Management, Inc.

Chapter 11

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

Adv#: 6:18-01113 David M. Goodrich, Chapter 11 Trustee v. Netrova, Inc., a California

#19.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01113. Complaint by David M. Goodrich, Chapter 11 Trustee against Netrova, Inc., a California corporation. (Charge To Estate). Complaint for Avoidance and Recovery of Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 550 and 551 and Adversary Proceeding Cover Sheet Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Werth, Steven)

From: 7/10/18, 8/21/18, 10/30/18, 1/15/19, 4/10/19, 6/12/19, 8/28/19

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Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Defendant(s):

Netreva, Inc., a California

Represented By
Lazaro E Fernandez

Plaintiff(s):

David M. Goodrich, Chapter 11

Represented By
Steven Werth

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer

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Allied Injury Management, Inc.

Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

#20.00 CONT First Omnibus Objection of Debtor-In-Possession Allied Injury Management, Inc. Seeking Disallowance of Certain Proofs of Claim
(Holding Date)

From: 11/8/16, 12/6/16, 1/10/17, 3/7/17,4/4/17, 4/25/17, 6/27/17, 7/11/17, 9/12/17, 11/14/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18, 11/27/18, 2/26/19, 4/10/19, 6/12/19, 8/28/19

Also #21

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Docket 83

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Movant(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

#21.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference
And (2) Requiring Status Report

From: 6/7/16, 8/30/16, 9/14/16, 10/20/16, 10/25/16, 12/6/16, 1/10/17, 2/28/17,
3/28/17, 5/30/17, 8/29/17, 11/28/17, 1/30/18, 4/10/18, 4/24/18, 6/26/18, 9/25/18,
11/27/18, 2/26/19, 4/10/19, 6/12/19, 8/28/19

Also #20

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Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 6, 2019

Hearing Room 303

2:00 PM

6:15-14230 Home Security Stores, Inc.

Chapter 7

Adv#: 6:18-01213 Pringle v. JPMorgan Chase Bank, National Association dba Chas

#22.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01213. Complaint by John Pringle against JPMorgan Chase Bank, National Association dba Chase Bank, Chase Bank USA, National Association. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer))

From: 1/9/19, 3/13/19, 6/5/19, 9/4/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Home Security Stores, Inc.

Represented By
Winfield S Payne III

Defendant(s):

JPMorgan Chase Bank, National

Represented By
Christopher O Rivas

Chase Bank USA, National

Represented By
Christopher O Rivas

Plaintiff(s):

John Pringle

Represented By
Robert P Goe

Trustee(s):

John P Pringle (TR)

Represented By
Robert P Goe
Charity J Manee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, November 6, 2019

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2:00 PM

CONT... Home Security Stores, Inc.

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 6, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#23.00 Motion by Revere Financial Corporation, as Liquidating Trustee of the Bankruptcy Estate of Douglas J. Roger, to Enforce Settlement

Also #24

EH ____

Docket 149

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Movant(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr
Sue-Ann L Tran

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr
Sue-Ann L Tran

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, November 6, 2019

Hearing Room 303

2:00 PM

CONT... Douglas Jay Roger

Chapter 7

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 6, 2019

Hearing Room 303

2:00 PM

6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#24.00 CONT Status Conference RE: [40] Amended Complaint (Second) by Franklin R Fraley Jr on behalf of Revere Financial Corporation against Bank of Southern California, N.A.. (RE: related document(s)1 Adversary case 6:16-ap-01199. Complaint by Revere Financial Corporation against Bank of Southern California, N.A.. (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other))

From: 8/28/19, 10/9/19

Also #23

EH__

Docket 40

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr
Sue-Ann L Tran

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 6, 2019

Hearing Room 303

2:00 PM

CONT... Douglas Jay Roger

Chapter 7

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 6, 2019

Hearing Room 303

2:00 PM

6:13-29922 Nancy Ann Howell

Chapter 7

Adv#: 6:14-01070 Law Office of Andrew S. Bisom et al v. Howell

**#25.00 CONT Motion For Summary Judgment
(Holding Date)**

From: 12/2/15, 2/17/16, 3/2/16, 3/16/16, 4/27/16, 9/21/16, 12/14/16, 6/21/17,
1/24/18, 1/31/18, 5/30/18, 10/10/18, 2/27/19, 8/28/19

Also #26

EH__

Docket 62

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nancy Ann Howell	Pro Se
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Defendant(s):

Nancy Ann Howell	Pro Se
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Movant(s):

Law Office of Andrew S. Bisom	Represented By Andrew S Bisom
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Plaintiff(s):

Law Office of Andrew S. Bisom	Represented By Andrew S Bisom
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Eisenberg Law Firm, APC	Represented By Andrew S Bisom
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, November 6, 2019

Hearing Room 303

2:00 PM

CONT... Nancy Ann Howell

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 6, 2019

Hearing Room 303

2:00 PM

6:13-29922 Nancy Ann Howell

Chapter 7

Adv#: 6:14-01070 Law Office of Andrew S. Bisom et al v. Howell

#26.00 CONT Status Conference RE: [1] Adversary case 6:14-ap-01070. Complaint by Law Office of Andrew S. Bisom, Eisenberg Law Firm, APC against Nancy Ann Howell. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury))

From: 5/14/14, 7/2/14, 12/10/14, 3/18/15, 4/22/15, 5/20/15, 7/22/15, 10/28/15, 12/2/15, 2/17/16, 3/2/16, 3/16/16, 4/27/16, 9/21/16, 12/14/16, 6/21/17, 1/24/18, 1/31/18, 5/30/18, 10/10/18, 2/27/19, 8/28/19

Also #25

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nancy Ann Howell	Pro Se
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Defendant(s):

Nancy Ann Howell	Pro Se
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Plaintiff(s):

Law Office of Andrew S. Bisom	Represented By Andrew S Bisom
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Eisenberg Law Firm, APC	Represented By Andrew S Bisom
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Trustee(s):

Steven M Speier (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
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Courtroom 303 Calendar**

Wednesday, November 6, 2019

Hearing Room 303

2:00 PM

CONT... Nancy Ann Howell

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:16-19018 Ingeborg Margarete Preisendanz

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23305 Spring Meadow Drive, Murrieta, California 92562

MOVANT: REVERSE MORTGAGE SOLUTIONS, INC.

From: 8/20/19, 9/19/19

EH__

Docket 62

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ingeborg Margarete Preisendanz

Represented By
Danny K Agai

Movant(s):

Wilmington Savings Fund Society,

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:17-16962 Vanessa Moore-Moreland

Chapter 13

#2.00 Motion to vacate dismissal

EH ____

Docket 64

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vanessa Moore-Moreland

Represented By
Nancy Korompis

Movant(s):

Vanessa Moore-Moreland

Represented By
Nancy Korompis
Nancy Korompis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:18-20002 Tanyua Alicia Gates-Holmes

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23631 Rhea Drive, Moreno Valley, CA 92557

MOVANT: NATIONSTAR MORTGAGE LLC DBA MR. COOPER AS
SERVICING AGENT FOR DEUTSCHE BANK NATIONAL TRUST COMPANY

From: 8/20/19, 10/1/19, 10/31/19

EH__

Docket 42

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Tanyua Alicia Gates-Holmes

Represented By
John F Brady

Movant(s):

Deutsche Bank National Trust

Represented By
Nancy L Lee
Gilbert R Yabes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

CONT... Tanyua Alicia Gates-Holmes

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#4.00 CONT Motion RE: Objection to Claim Number 5 by Claimant Specialized Loan Servicing LLC

From: 10/3/19

Also #5 & #6

EH ____

Docket 44

Tentative Ruling:

10/3/2019

BACKGROUND:

On April 15, 2019, Mark & Elizabeth Swartz ("Debtors") filed a Chapter 13 voluntary petition. On June 21, 2019, The Bank of New York Mellon f/k/a The Bank of New York as successor Indenture trustee to JPMorgan Chase Bank, National Association for CWHEQ Revolving Home Equity Loan Trust, Series 2006-F ("Creditor") filed a proof of claim for a secured claim in the amount of \$157,959.06 ("Claim 5").

On July 10, 2019, Debtors filed an objection to Claim 5. Debtors argued that the information filed in support of Claim 5 is inadequate pursuant to the Federal Rules of Bankruptcy Procedure, and that, as a result, Creditor has failed to meet its burden of proof. At the hearing of August 22, 2019, the Court noted that there appeared to be an error on the proof of service which resulted in Creditor's notice address being misstated. For that reason, the Court continued the matter for proper service.

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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

On August 30, 2019, Debtors filed a renewed objection to Claim 5. The Court notes that notice and service are now proper.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (quoting *In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (quoting *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (quoting *Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the

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Central District of California
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Thursday, November 7, 2019

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11:00 AM

CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

FED. R. BANKR. P. Rule 3001(c)(2) identifies certain required information that a claimant must attach to a proof of claim in order for the claim to be afforded *prima facie* validity. In particular, the Court notes that Rule 3001(c)(2)(A) and (C) provide requirements related to the itemization of non-principal amounts and escrow amounts, respectively.

The Court finds Debtors' assertion that the supporting information is inadequate to be well-founded. The mortgage proof of claim attachment includes the following information. Part 2 identifies a principal balance of \$98,982.98, interest due of \$55,486.25, and fees and costs of \$3,489.83. Part 3 identifies a pre-petition arrears of \$87,692.60, of which \$84,202.77 was principal and \$3,489.83 was the aforementioned costs. And Part 4 asserts that the month payment includes \$607.39 for principal and interest and \$549.90 for escrow.

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Thursday, November 7, 2019

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11:00 AM

CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

The two figures which do not appear to be justified in the supporting documentation are the \$55,486.25 in interest and the \$549.90 monthly payment for escrow. The Court notes that the loan payment history spreadsheet provided by Creditor does not contain any itemization for interest or escrow, and, furthermore, the entire column relating to accrued interest balance and accrued escrow balance is zeroed out.

Because Creditor has failed to separate principal, interest, and escrow, as directed by FED. R. BANKR. P. Rule 3001(c)(2), and, noting that Debtors have declared that there is no escrow account relating to the second mortgage, the Court is unable to determine the validity or amount of the prepetition default identified in column G of the loan payment history. The Court has also not been provided with any itemization or calculation of the interest amount, alleged to be \$55,486.25.

As a result, the Court is inclined to reduce Claim 5 to \$102,472.81, representing the principal balance and fees and costs due in part 2 of the loan payment history, with a prepetition arrearage amount of \$0.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

**United States Bankruptcy Court
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11:00 AM

CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

Movant(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Elizabeth M Swartz

Represented By
Joseph A Weber
Joseph A Weber
Fritz J Firman
Fritz J Firman

PYOD LLC

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#5.00 Order to show cause why Claimant, The Bank of New York Mellon, as Successor Indenture Trustee, and Servicer, Specialized Loan Servicing LLC, Claim 5 should not be reduced

Also #4 & #6

EH__

Docket 52

***** VACATED *** REASON: CONTINUED TO 12/19/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#6.00 CONT Confirmation of Chapter 13 Plan

From: 7/11/19, 8/22/19, 10/3/19

Also #4 & #5

EH __

Docket 15

***** VACATED *** REASON: CONTINUED TO 12/19/19 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-13444 Humberto Picciotti

Chapter 13

#7.00 Motion to Avoid Junior Lien with Lake Hills Maintenance Corp

EH ____

Docket 42

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/14/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Humberto Picciotti

Represented By
D Justin Harelik

Movant(s):

Humberto Picciotti

Represented By
D Justin Harelik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-18726 Frank E Sharaby

Chapter 13

#8.00 Motion to Avoid Junior Lien On Principal Residence with Franklin Credit Management

EH ____

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank E Sharaby

Represented By
Paul Y Lee

Movant(s):

Frank E Sharaby

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-16369 Jorge Luis Ibarra Carrillo

Chapter 13

#9.00 CONT Confirmation of Chapter 13 Plan

From: 10/17/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Luis Ibarra Carrillo

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-16560 Orlando Soriano and Veronica Vera-Soriano

Chapter 13

#10.00 CONT Confirmation of Chapter 13 Plan

From: 10/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Orlando Soriano

Represented By
James D. Hornbuckle

Joint Debtor(s):

Veronica Vera-Soriano

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-16658 Stephanie McCravey Cooper

Chapter 13

#11.00 CONT Confirmation of Chapter 13 Plan

From: 10/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie McCravey Cooper

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-16963 Dan Parr and Ida Parr

Chapter 13

#12.00 CONT Confirmation of Chapter 13 Plan

From: 10/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dan Parr

Represented By
Paul Y Lee

Joint Debtor(s):

Ida Parr

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-16977 Mark E Harvey

Chapter 13

#13.00 CONT Confirmation of Chapter 13 Plan

From: 10/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark E Harvey

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17037 Sonia Salguero

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 8/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sonia Salguero

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17038 Jessica Marie Barron-Lopez

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 8/30/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jessica Marie Barron-Lopez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17042 Willie J Franklin

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Willie J Franklin

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17047 Christopher Dennis

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 8/30/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Dennis

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17080 Cesar Orozco

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cesar Orozco

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17082 Laura Marie Beachamp

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Laura Marie Beachamp

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17091 Edward A Jandt and Shelley A Jandt

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edward A Jandt

Represented By
Christopher Hewitt

Joint Debtor(s):

Shelley A Jandt

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17096 Joseph F Morgano and Elizabeth A Morgano

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph F Morgano

Represented By
Julie J Villalobos

Joint Debtor(s):

Elizabeth A Morgano

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17099 Malalage Malalasekera

Chapter 7

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
9/23/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malalage Malalasekera

Represented By
Kevin Tang

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17112 Jeff Book

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeff Book

Represented By
Eric C Morris

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17124 Pierre Daniel Petit Frere and Theresa M Lopez Petit Frere

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pierre Daniel Petit Frere

Represented By
Robert L Firth

Joint Debtor(s):

Theresa M Lopez Petit Frere

Represented By
Robert L Firth

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17148 Guillermo Manzo and Cynthia Manzo

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Guillermo Manzo

Represented By
Todd L Turoci

Joint Debtor(s):

Cynthia Manzo

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17149 Elmy Martinez

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elmy Martinez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17200 Michelle Crain

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Crain

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17211 Leroy Elanders Bray, III

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/3/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Leroy Elanders Bray III

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17249 Mark Allen Beatty

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Allen Beatty

Represented By
Jeffrey D Larkin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17273 Mario Herrera

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/18/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mario Herrera

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17274 Sherry L. Stokes

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sherry L. Stokes

Represented By
Gregory Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17275 Lisa Marie Hawkins

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lisa Marie Hawkins

Represented By
Jeffrey N Wishman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17283 Cory LeRoi Page and Gabriella Pre Page

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cory LeRoi Page

Represented By
Kristin R Lamar

Joint Debtor(s):

Gabriella Pre Page

Represented By
Kristin R Lamar

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17310 Kenneth James Trujillo, Jr.

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kenneth James Trujillo Jr.

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17316 Steven Scott De Keyrel and Deena Marie Eshom De Keyrel

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Steven Scott De Keyrel

Represented By
Brian J Soo-Hoo

Joint Debtor(s):

Deena Marie Eshom De Keyrel

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17329 Mark R Gehrig

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark R Gehrig

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17343 Dane Harmon

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dane Harmon

Represented By
Timothy S Huyck

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17360 Rosie Montoya Alonzo

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rosie Montoya Alonzo

Represented By
H Christopher Coburn

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17376 Delbert S. May

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Delbert S. May

Represented By
Gregory Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17390 Shawn Michael DeLuca and Julie Lynn DeLuca

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shawn Michael DeLuca

Represented By
Nicholas M Wajda

Joint Debtor(s):

Julie Lynn DeLuca

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17413 Alejandro Rubio Williams

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alejandro Rubio Williams

Represented By
Robert W Ripley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17414 Daniel Enrique Hernandez

Chapter 7

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
9/23/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Enrique Hernandez

Represented By
Kevin T Simon

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-17416 Gerald Curtis Collins and Valerie Cecelia Collins

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gerald Curtis Collins

Represented By
M. Wayne Tucker

Joint Debtor(s):

Valerie Cecelia Collins

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:00 AM

6:19-16068 John B Jensen

Chapter 13

#44.00 CONT Confirmation of Chapter 13 Plan

From: 10/3/19, 10/31/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John B Jensen

Represented By
Marjorie M Johnson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:15-17060 Chris Alvarado Espinoza

Chapter 13

#45.00 CONT Trustee's Motion to Dismiss Case

From: 10/3/19, 10/17/19

EH ____

Docket 73

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Chris Alvarado Espinoza

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:15-19037 Justin Sloan Harvey

Chapter 13

#46.00 CONT Trustee's Motion to Dismiss Case

From: 10/17/19

EH__

Docket 110

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Justin Sloan Harvey

Represented By
Jenny L Doling
Summer M Shaw

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:15-20387 Marion Schmidt

Chapter 13

#47.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 64

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/5/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marion Schmidt

Represented By
Daniel C Sever

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:16-13030 Richard Hill Lindsay and Laura Lee Lindsay

Chapter 13

#48.00 CONT Trustee's Motion to Dismiss Case re Tax Returns

From: 8/19/19

Also #49

EH__

Docket 128

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Hill Lindsay

Represented By
Emilia N McAfee

Joint Debtor(s):

Laura Lee Lindsay

Represented By
Emilia N McAfee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:16-13030 Richard Hill Lindsay and Laura Lee Lindsay

Chapter 13

#49.00 CONT Trustee's Motion to Dismiss Case re delinquency

From: 10/31/19

Also #48

EH ____

Docket 139

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Hill Lindsay

Represented By
Emilia N McAfee

Joint Debtor(s):

Laura Lee Lindsay

Represented By
Emilia N McAfee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:16-16946 Elliott Howard Blue, Jr and Yvette Blue

Chapter 13

#50.00 CONT Trustee's Motion to Dismiss Case

From: 10/17/19, 10/31/19

EH__

Docket 104

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elliott Howard Blue Jr

Represented By
Michael E Clark
Barry E Borowitz

Joint Debtor(s):

Yvette Blue

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:16-18990 John D Castro, Jr and Jennifer Manda Castro

Chapter 13

#51.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 100

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John D Castro Jr

Represented By
Chris A Mullen

Joint Debtor(s):

Jennifer Manda Castro

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:17-11167 Victor Thomas Lawton

Chapter 13

#52.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 65

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/5/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Victor Thomas Lawton

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:17-15343 Jose Gabriel Sahagun, Jr.

Chapter 13

#53.00 CONT Trustee's Motion to Dismiss Case

From: 10/17/19

EH __

Docket 26

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Gabriel Sahagun Jr.

Represented By
Richard G Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:17-17942 Viorel Bucur

Chapter 13

#54.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 93

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Viorel Bucur

Represented By
Michael Jay Berger

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:17-20121 Agustin Napolion Joya and Dora Maria Joya

Chapter 13

#55.00 CONT Trustee's Motion to Dismiss Case

From: 10/17/19

EH__

Docket 64

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Agustin Napolion Joya

Represented By
Daniel King

Joint Debtor(s):

Dora Maria Joya

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:17-20652 Marian Amelia Pagano

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 47

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marian Amelia Pagano

Represented By
David Lozano

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:18-11416 Darlene J. Wadler

Chapter 13

#57.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Darlene J. Wadler

Represented By
Michael Jay Berger

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:18-13566 Marco Tulio Magana and Gloria Louisa Magana

Chapter 13

#58.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 49

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marco Tulio Magana

Represented By
Daniel King

Joint Debtor(s):

Gloria Louisa Magana

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:18-13714 Jose Martinez and Aurora Martinez

Chapter 13

#59.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Martinez

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Aurora Martinez

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:18-18415 Donna Denise Upton

Chapter 13

#60.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 39

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Denise Upton

Represented By
Seema N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:18-18484 Denise Awages Bracken

Chapter 13

#61.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denise Awages Bracken

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:18-19044 Kimberly Ida McGee Hager

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH__

Docket 47

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kimberly Ida McGee Hager

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:18-20232 Diana Marie Perrone

Chapter 13

#63.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Diana Marie Perrone

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:19-10071 John M. Betham and Dana M. Betham

Chapter 13

#64.00 CONT Trustee's Motion to Dismiss Case

From: 10/31/19

EH__

Docket 26

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John M. Betham

Represented By
Christopher J Langley

Joint Debtor(s):

Dana M. Betham

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:19-10531 Kimberly A Hardcastle

Chapter 13

#65.00 CONT Trustee's Motion to Dismiss Case

From: 10/17/19

EH__

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kimberly A Hardcastle

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:19-11103 Golda Y Williams

Chapter 13

#66.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 25

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Golda Y Williams

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 7, 2019

Hearing Room 303

11:01 AM

6:19-14425 La Quetta Delaine Bush Simmons

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH ____

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

La Quetta Delaine Bush Simmons

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:17-11010 Gary F Pico and Mercedes P. Pico

Chapter 13

#1.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 39119 Crown Ranch Road, Temecula, California 92591

MOVANT: LAKEVIEW LOAN SERVICING LLC

From: 9/17/19, 10/15/19

EH__

Docket 41

Tentative Ruling:

9/17/2019

Service is Proper
Opposition: Debtors

Parties to apprise the court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gary F Pico

Represented By
Gregory Ashcraft

Joint Debtor(s):

Mercedes P. Pico

Represented By
Gregory Ashcraft

Movant(s):

Lakeview Loan Servicing, LLC by

Represented By
Mark S Krause

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Gary F Pico and Mercedes P. Pico

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:17-14469 Mario Timothy Velasquez and Susan Lorraine Velasquez Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 109 West Rancho Road, Corona, California 92882

MOVANT: BANK OF AMERICA NA

EH ____

Docket 45

Tentative Ruling:

Tentative Ruling:

11/12/19

Service is Proper
Opposition: Debtor

Parties to discuss amount of arrears. Furthermore, parties to apprise the court on adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mario Timothy Velasquez

Represented By
Paul Y Lee

Joint Debtor(s):

Susan Lorraine Velasquez

Represented By
Paul Y Lee

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Kelsey X Luu

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

**CONT... Mario Timothy Velasquez and Susan Lorraine Velasquez
Gilbert R Yabes**

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:17-15772 Annette Leshon Rudd

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15399 Alostia Ln., Moreno Valley, CA 92555-2909

MOVANT: WILMINGTON TRUST NATIONAL ASSOCIATION

From: 10/15/19

EH__

Docket 97

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: Yes

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1).
GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3 and 12.
DENY alternative request under ¶ 13 as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Annette Leshon Rudd

Represented By
John F Brady

Movant(s):

Wilmington Trust, National

Represented By
Sumit Bode
Robert P Zahradka
Darlene C Vigil

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Annette Leshon Rudd

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:18-14868 Michael J Soriano

Chapter 13

#4.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 13700 Daimler Street, Moreno Valley, CA 92553

MOVANT: ARVEST CENTRAL MORTGAGE COMPANY

From: 10/15/19

EH__

Docket 48

***** VACATED *** REASON: ORDER ENTERED 10/25/19**

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: Yes

Parties to apprise the Court of the status of adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michael J Soriano

Represented By
Paul Y Lee

Movant(s):

Arvest Central Mortgage Company,

Represented By
Nichole Glowin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:18-17079 Ronald A Carter

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 24 McNish Rd, Southern Pines, NC 28387

MOVANT: US BANK TRUST NATIONAL ASSOCIATION

EH ____

Docket 45

Tentative Ruling:

Tentative Ruling:

11/12/19

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from §1301 Co-debtor stay. GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under ¶13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ronald A Carter

Represented By
M. Wayne Tucker

Movant(s):

U.S. Bank Trust National

Represented By
Christina J Khil

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Ronald A Carter

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:18-18846 Jose L. Ferrer and Maria Ferrer

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 25915 Jumano Drive, Moreno Valley, CA 92551

MOVANT: CALIBER HOME LOANS, INC

EH ____

Docket 31

Tentative Ruling:

Tentative Ruling:

11/12/19

Service is Proper
Opposition: None

The court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §362(d)(1). GRANT relief from Rule 4001(a) stay. GRANT requests under paragraphs 2 and 3. DENY alternative request under paragraph 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose L. Ferrer

Represented By
Antonio John Ibarra

Joint Debtor(s):

Maria Ferrer

Represented By
Antonio John Ibarra

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Jose L. Ferrer and Maria Ferrer

Chapter 13

Movant(s):

Caliber Home Loans, Inc.

Represented By
Christina J Khil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-11963 Pamela M Bradford

Chapter 13

#7.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5744 Alexandria Avenue, Corona, CA 92880-7253

MOVANT: U.S. BANK, NATIONAL ASSOCIATION AS LEGAL TITLE TRUSTEE FOR TRUMAN 2016 SC6 TITLE TRUST

From: 10/15/19

EH__

Docket 49

Tentative Ruling:

10/15/2019

Service is Proper
Opposition: None

The Court is inclined to CONTINUE the matter for Movant to provide a supplemental opposition or update of the status of arrears, and for Movant to file an opposition if desired. The Court notes that Movant's assertion that "[t]his is no less than the 6th [b] ankruptcy case which has been filed by the Debtor, all Chapter 13 cases filed in this [d] istrict and subsequently dismissed" is incorrect. Between August 26, 2011, and June 23, 2017, Debtor was in a successful Chapter 13 case and received a discharge. To the extent that the assignor of the deed of trust did not receive monthly payments directly from Debtor, that matter could have been addressed during the pendency of that case. Additionally, the Court notes that the arrearage figures provided in the motion are inherently contradictory. The motion asserts that Debtor has missed two monthly payments post-confirmation, resulting in a delinquency in the amount of \$3,468.80. Section 12(h) of the real property declaration, however, indicates that, in the three months post-confirmation, Debtor has made one full payment and two partial payments, resulting in a deficiency of \$1,479.28 (less than one monthly payment).

APPEARANCES REQUIRED.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Pamela M Bradford

Chapter 13

Party Information

Debtor(s):

Pamela M Bradford

Represented By
James D. Hornbuckle

Movant(s):

U.S. BANK, NA AS LEGAL TITLE

Represented By
Diane Weifenbach

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-12079 Nora Munoz

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Kia Sorento, VIN 5XYPG4A3XJG347728

MOVANT: KIA MOTORS FINANCE

EH ____

Docket 29

Tentative Ruling:

Tentative Ruling:

11/12/2019

Service is Proper
Opposition: None

Debtor had previous bankruptcy case dismissed on March 1, 2019. Therefore, pursuant to the operation of 11 U.S.C §362(c)(3), the automatic stay in this case, absent order of the Court, was to expire on April 13, 2019. While, Debtors did file a motion to continue the automatic stay, that motion was ultimately denied by the Court. Therefore, the automatic stay expired on April 13, 2019, and the Court is inclined to DENY the motion as Moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Nora Munoz

Represented By
William Radcliffe

Movant(s):

Kia Motors Finance

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Nora Munoz

Jennifer H Wang

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-16988 Jaime Ricardo Lopez Perez and Carmen Evelyn Gomez

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Honda Civic Cl, Vin 2HGFB6E58EH700560

MOVANT: SCHOOLSFIRST FEDERAL CREDIT UNION

EH ____

Docket 15

Tentative Ruling:

Tentative Ruling:

11/12/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jaime Ricardo Lopez Perez

Represented By
James G. Beirne

Joint Debtor(s):

Carmen Evelyn Gomez

Represented By
James G. Beirne

Movant(s):

SCHOOLSFIRST FEDERAL

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

**CONT... Jaime Ricardo Lopez Perez and Carmen Evelyn Gomez
Paul V Reza**

Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-17099 Malalage Malalasekera

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA ACCORD, VIN: 1HGC R2F3 0HA1 35888

MOVANT: HONDA LEASE TRUST

EH ____

Docket 34

Tentative Ruling:

Tentative Ruling:

11/12/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under paragraph 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Malalage Malalasekera

Represented By
Kevin Tang

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Malalage Malalasekera

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-17492 Erica K Reyes and Deirdre R Reyes

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Hyundai Sonata, VIN: 5NPE24AF8JH598675

MOVANT: SANTANDER CONSUMER USA INC

EH __

Docket 16

Tentative Ruling:

Tentative Ruling:

11/12/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Erica K Reyes

Represented By
M. Wayne Tucker

Joint Debtor(s):

Deirdre R Reyes

Represented By
M. Wayne Tucker

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Erica K Reyes and Deirdre R Reyes

Chapter 7

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-17675 Ronnie Lee Minnifield

Chapter 7

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 127 North 12th Avenue, Upland, California 91786 with Exhibits filed by Creditor U.S. Bank Trust National Association, as Trustee for CVI CGS Mortgage Loan Trust I

MOVANT: US BANK TRUST NATIONAL ASSOCIATION

EH ____

Docket 15

Tentative Ruling:

Tentative Ruling:

11/12/19

Service: Proper

Opposition: None

Debtor had previous bankruptcy case dismissed on October 10, 2019. Therefore, pursuant to the operation of 11 U.S.C §362(c)(3), the automatic stay in this case, absent order of the Court, will expire on November 9, 2019. Therefore, the Court is inclined to DENY the motion as Moot.

APPEARANCES REQUIRED

Party Information

Debtor(s):

Ronnie Lee Minnifield

Represented By
Neil R Hedtke

Movant(s):

U.S. Bank Trust National

Represented By
Robert P Zahradka

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Ronnie Lee Minnifield

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-17770 Jose Miguel Fernandez Bonilla and Norma Alicia Orellana

Chapter 7

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 NISSAN MAXIMA, VIN # 1N4AA5AP1DC805929

MOVANT: NISSAN MOTOR ACCEPTANCE CORPORATION

EH ____

Docket 12

Tentative Ruling:

Tentative Ruling:

11/12/19

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose Miguel Fernandez Bonilla

Represented By
George P Hobson Jr

Joint Debtor(s):

Norma Alicia Orellana de Fernandez

Represented By
George P Hobson Jr

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Jose Miguel Fernandez Bonilla and Norma Alicia Orellana

Chapter 7

Movant(s):

NISSAN MOTOR ACCEPTANCE

Represented By
Michael D Vanlochem

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-19019 Denise Valencia

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 14212 Cherry Creek Circle, Eastvale, CA

MOVANT: YA LIU

EH__

Docket 10

***** VACATED *** REASON: CASE DISMISSED 10/30/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Denise Valencia

Pro Se

Movant(s):

YA LIU

Represented By
Helen G Long

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-19063 Paul Edward Young, Jr.

Chapter 13

#15.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property located at 29075 Boulder Crest Way, Menifee, CA 92584

MOVANT: PAUL EDWARD YOUNG, JR

EH ____

Docket 10

Tentative Ruling:

TENTATIVE RULING:

11/12/19

Service: Proper
Opposition: None

The Court has reviewed the motion: notice acceptable and no opposition has been filed. Appearing that Debtor has provided sufficient evidence to rebut the statutory presumption of 11 U.S.C. § 362(c)(3)(C)(ii) that the case was not filed in good faith, the Court is inclined to GRANT the motion, CONTINUING the stay as to all creditors.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Paul Edward Young Jr.

Represented By
Seema N Sood

Movant(s):

Paul Edward Young Jr.

Represented By
Seema N Sood

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Paul Edward Young, Jr.

Chapter 13

Seema N Sood
Seema N Sood
Seema N Sood
Seema N Sood
Seema N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-19251 Adam Brian Britt and Kenya Lashawn Britt

Chapter 13

#16.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 3046 Statice Court, Hemet, CA 92545

MOVANT: ADAM AND KENYA BRITT

EH ____

Docket 10

Tentative Ruling:

TENTATIVE RULING:

11/12/19

Service: Proper
Opposition: None

Debtors failed to explain why their son's ailment will not be a continuing problem for their plan. Appearing that Debtors failed to provide sufficient evidence to rebut the statutory presumption of 11 U.S.C. § 362(c)(3)(C)(ii) that the case was not filed in good faith, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Adam Brian Britt

Represented By
Matthew D. Resnik

Joint Debtor(s):

Kenya Lashawn Britt

Represented By
Matthew D. Resnik

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Adam Brian Britt and Kenya Lashawn Britt

Chapter 13

Movant(s):

Adam Brian Britt

Represented By
Matthew D. Resnik

Kenya Lashawn Britt

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-19359 Jesus Antonio Palomares and Claudia Heredia Palomares

Chapter 13

#17.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate re 8490 Bellmore St. Riverside CA 92509

MOVANT: JESUS ANTONIO PALOMARES

EH__

Docket 8

Tentative Ruling:

TENTATIVE RULING:

11/12/19

Service: Proper
Opposition: None

Debtors claim that their last case was dismissed because they failed to check certain boxes. In the prior case, Debtors represented themselves. Debtors have decided to also represent themselves in this proceeding. Furthermore, Debtors have not stated any method or manner that will ensure the court such mistakes will not continue to happen. Thus, it appears that Debtors failed to provide sufficient evidence to rebut the statutory presumption of 11 U.S.C. § 362(c)(4)(D)(i) that the case was not filed in good faith. The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jesus Antonio Palomares Pro Se

Joint Debtor(s):

Claudia Heredia Palomares Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Jesus Antonio Palomares and Claudia Heredia Palomares

Chapter 13

Movant(s):

Jesus Antonio Palomares

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

6:19-19422 Eugenio Giuseppe Mannella

Chapter 13

#18.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 32589 Winterberry Lane, Lake Elsinore, CA and as to all creditors.

MOVANT: EUGENIO GIUSEPPE MANNELLA

EH__

Docket 7

Tentative Ruling:

TENTATIVE RULING:

11/12/19

Service: Proper
Opposition: None

The Court has reviewed the motion. Notice was improper because Debtor fail to include Cottonwood Canyon Hills Community Association and served the listed creditors eighteen days before the hearing, violating the regular notice requirements pursuant to LBR 9013-1. Thus, the Court will CONTINUE the motion, so Debtor can properly serve all the creditors involved and give them ample time to respond to the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Eugenio Giuseppe Mannella

Represented By
Suzette Douglas

Movant(s):

Eugenio Giuseppe Mannella

Represented By
Suzette Douglas

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

11:00 AM

CONT... Eugenio Giuseppe Mannella

Suzette Douglas

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

2:00 PM

6:19-17537 Jauregui Trucking, Inc.

Chapter 11

#19.00 CONT Emergency Hearing on Debtor's Motion for Authorization to use Cash Collateral

From: 9/4/19, 10/1/19

Also #20

EH ____

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

Movant(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 12, 2019

Hearing Room 303

2:00 PM

6:19-17537 Jauregui Trucking, Inc.

Chapter 11

#20.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference
And (2) Requiring Status Report

From:10/1/19

Also #19

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

10:00 AM

6:19-17916 Andrea Jean Gleason

Chapter 7

#1.00 Pro se Reaffirmation Agreement Between Debtor and Altura Credit Union re
2015 Jeep Wrangler

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrea Jean Gleason

Represented By
Morton J Grabel

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

10:00 AM

6:19-17876 Myrna B Fernandez

Chapter 7

#2.00 Pro se Reaffirmation Agreement Between Debtor and Altura Credit Union re
2019 Harley Davidson

Also #3

EH__

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Myrna B Fernandez

Pro Se

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

10:00 AM

6:19-17876 Myrna B Fernandez

Chapter 7

#3.00 Pro se Reaffirmation Agreement Between Debtor and Hyundai Motor Finance re
2020 Hyundai Elantra

Also #2

EH__

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Myrna B Fernandez

Pro Se

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

10:00 AM

6:19-17688 Steven Roy Huelden and Kathleen Sloan Huelden

Chapter 7

#4.00 Pro se Reaffirmation Agreement Between Debtor and Daimler Trust re: 2017 Mercedes-Benz

EH ____

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Steven Roy Huelden

Represented By
Norma Duenas

Joint Debtor(s):

Kathleen Sloan Huelden

Represented By
Norma Duenas

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

10:00 AM

6:19-17523 Anna Maria Cabrera

Chapter 7

#5.00 Pro se Reaffirmation Agreement Between Debtor and Ally Financial re: 2012 Chevrolet Cruze

EH ____

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anna Maria Cabrera

Pro Se

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

10:00 AM

6:19-17160 Jose Antonio Trejo and Maria Consuelo Trejo

Chapter 7

#6.00 Pro se Reaffirmation Agreement Between Debtor and Ally Bank re: 2017 Dodge Journey

EH ____

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Antonio Trejo Pro Se

Joint Debtor(s):

Maria Consuelo Trejo Pro Se

Trustee(s):

Charles W Daff (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

10:00 AM

6:19-16746 Michael Thomas Sheahan

Chapter 7

#7.00 Reaffirmation Agreement Between Debtor and Nissan Motor Acceptance Corp.
re 2014 Nissan Altima

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Thomas Sheahan

Represented By
Marc A Duxbury

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, November 13, 2019

Hearing Room 303

10:00 AM

6:19-16453 Louis R Gonzales and Nicole A Gonzales

Chapter 7

#8.00 Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation re 2016 Toyota Sienna

EH__

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Louis R Gonzales Pro Se

Joint Debtor(s):

Nicole A Gonzales Pro Se

Trustee(s):

Steven M Speier (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, November 13, 2019

Hearing Room 303

10:00 AM

6:18-19096 Nathaniel Russell Williams

Chapter 7

#9.00 Pro se Reaffirmation Agreement Between Debtor and 21st Mortgage Corporation re 1988 HM Systems Manufactured Home

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nathaniel Russell Williams

Represented By
Dana Travis

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

11:00 AM

6:19-19120 Heinrich Franz Brinkmann

Chapter 13

#10.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 27653 Bottle Brush Way Murrieta, CA 92562-2546

MOVANT: HEINRICH FRANZ BRINKMANN

From: 11/5/19

EH ____

Docket 12

Tentative Ruling:

11/5/2019

Service is Improper
Opposition: None

Judge Houle's self-calendaring procedures require that motions to continue the automatic stay which are set on shortened notice must be served on secured creditors pursuant to FED. R. BANKR. P. Rule 7004. Here, it does not appear that Green Ranch Community Association was served pursuant to Rule 7004. Additionally, the Court notes that while it appears the motion was served pursuant to Rule 7004 on the holder of the first deed of trust, that entity is not actually listed in the body of the motion. Instead, it appears that Debtor listed the loan servicer in the body of the motion, while not serving the loan servicer pursuant to Rule 7004. For these reasons, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

11:00 AM

CONT... Heinrich Franz Brinkmann

Chapter 13

Movant(s):

Heinrich Franz Brinkmann

Represented By
Stephen H Darrow

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

11:00 AM

6:17-12527 William J Beddingfield

Chapter 7

#11.00 Trustee's Final Report and Applications for Compensation

EH ____

Docket 94

Tentative Ruling:

11/13/19

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 4,581.19

Trustee Expenses: \$

Attorney Fees: \$ 27,551.50

Attorney Costs: \$ 522.43

Accountant Fees: \$1,500

Trustee and Counsel to explain the details of the financing agreement with Markus Boyd.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

William J Beddingfield

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, November 13, 2019

Hearing Room 303

11:00 AM

CONT... William J Beddingfield

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Represented By

Noreen A Madoyan

Noreen A Madoyan

Meghann A Triplett

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 13, 2019

Hearing Room 303

11:00 AM

6:15-20280 Kai Lin Wu

Chapter 7

#12.00 Notice of Trustee's Final Report and Applications for Compensation

EH ____

Docket 97

Tentative Ruling:

11/13/2019

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 4,795.65
Trustee Expenses: \$ 597.41

Attorney Fees: \$ 13,262.43
Attorney Costs: \$ 354.79

Accountant Fees: \$1,414.46
Accountant Costs: \$251.30

Trustee's final report also includes a request to pay the secured claim of the County of San Bernardino in full. On March 6, 2017, however, Trustee filed a motion to deem the claim of the County of San Bernardino as fully secured, not entitled to a dividend. On April 17, 2017, the Court granted the motion, entering an order which stated that the claim was "[a]llowed as fully secured, not entitled to a dividend" [Dkt. No. 62]. Trustee to address the apparent conflict between Trustee's proposed distribution and the Court order entered April 17, 2017.

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11:00 AM

CONT... Kai Lin Wu

Chapter 7

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Kai Lin Wu

Represented By
Paul Y Lee

Trustee(s):

John P Pringle (TR)

Represented By
Wesley H Avery

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
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Wednesday, November 13, 2019

Hearing Room 303

11:00 AM

6:17-18617 Christy Carmen Hammond

Chapter 7

#13.00 Motion for Order Compelling Debtor to Vacate and Turnover Real Property

EH ____

Docket 40

Tentative Ruling:

11/13/19

BACKGROUND

On October 16, 2017, Christy Hammond ("Debtor") filed a Chapter 7 voluntary petition. Among the assets of the estate is certain real property located at 5918 Ridgeway Dr., Chino Hills, CA 91709 (the "Property"). On January 29, 2018, Debtor obtained a discharge.

On April 23, 2018, the Chapter 7 Trustee filed a notice of assets, subsequently employing an attorney, and a real estate broker. Debtor opposed Trustee's request to hold a real estate broker, and the Court approved the application after a hearing held on March 27, 2019.

On October 16, 2019, Trustee filed (1) a motion for turnover of property (the "Motion"); and (2) an adversary complaint against Kenneth Hammond seeking turnover of property from Debtor's non-filing spouse. The Motion requests that the Court order the occupants to vacate the Property within twenty days, while outlining certain permitted actions in the event that the occupants do not timely vacate the Property.

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11:00 AM

CONT... Christy Carmen Hammond

Chapter 7

On October 30, 2019, Debtor filed her opposition to the Motion. Debtor's primary argument is that administration of the Property will not produce a consequential benefit to the estate. According to Trustee, the value of the Property is \$600,000-\$615,000, the Property is encumbered by security interests totaling \$402,000, Debtor claimed a homestead exemption in the amount of \$100,000, and costs of sale/repairs would total \$63,000. These figures would produce nonexempt equity in the range of \$35,000 to \$50,000. In Debtor's opposition she asserts that Trustee understates the needed repairs by \$52,960. Debtor also contends that Trustee overstates the fair market value of the Property by \$50,000-\$65,000. Finally, Debtor has increased her homestead exemption from \$100,000 to \$175,000 pursuant to an amended Schedule C filed October 30, 2019 [Dkt. No. 44]. Debtor also raises various procedural and equitable arguments in her opposition.

On November 6, 2019, Trustee filed a reply. Of particular note is that Trustee states that it will file an objection to Debtor's amended homestead exemption.

DISCUSSION

11 U.S.C. § 542(a) states:

Except as provided in subsection (c) or (d) of this section, 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, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

The standard for a turnover action is well established:

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CONT... Christy Carmen Hammond

Chapter 7

"To prevail in a turnover action under § 542, the party seeking turnover must establish (1) that the property is or was in the possession, custody or control of an entity during the pendency of the case, (2) that the property may be used by the trustee in accordance with § 363 or exempted by the debtor under § 522; and (3) that the property has more than inconsequential value or benefit to the estate."

In re Bailey, 380 B.R. 486, 490 (B.A.P. 6th Cir. 2008); *see also In re Newman*, 487 B.R. 193 (B.A.P. 9th Cir. 2013). Here, the parties dispute the third prong of the turnover standard identified above.

The Court need not address the parties' dispute regarding the fair market value of the Property because Debtor's amended Schedule C, filed October 30, 2019, increased Debtor's homestead exemption by \$75,000. Because Trustee's own calculation results in realizable equity in the range of \$35,000 to \$50,000, Debtor's increased claimed homestead exemption eliminates all realizable equity in the subject property. Pursuant to FED. R. BANKR. P. Rule 1009(a), Debtor has a right to amend her schedules "as a matter of course" until the case is closed. And, pursuant to FED. R. BANKR. P. Rule 4003(c), the party objecting to a claimed exemption has the burden of proof. Therefore, in the absence of a formal objection, the Court must assume that Debtor's amended homestead exemption is valid. If Debtor's amended homestead exemption is valid, then the Property does not have consequential value to the bankruptcy estate.

TENTATIVE RULING

The Court is inclined to CONTINUE the matter for Trustee to file an objection to Debtor's amended homestead exemption.

APPEARANCES REQUIRED.

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11:00 AM

CONT... Christy Carmen Hammond

Chapter 7

Party Information

Debtor(s):

Christy Carmen Hammond

Represented By
Eric C Morris

Movant(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

**United States Bankruptcy Court
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Wednesday, November 13, 2019

Hearing Room 303

11:00 AM

6:19-18416 Octavio P Garcia

Chapter 7

#14.00 Motion by United States Trustee to Dismiss Case with a Re-filing Bar

CASE DISMISSED 10/15/19

EH ____

Docket 12

Tentative Ruling:

11/13/19

BACKGROUND

On September 25, 2019, Octavio Garcia ("Debtor") filed a skeletal Chapter 7 voluntary petition. Debtor has had bankruptcy cases previously dismissed in: (1) 1997; (2) 2011; (3) March 2019; (4) April 2019; and (5) July 2019. The last four cases were dismissed for failure to file information.

The balance of Debtor's case commencement documents were due October 9, 2019. On October 8, 2019, Debtor filed a motion to extend the deadline to file case commencement documents, which was denied by the Court the following day. UST filed a motion to dismiss the case with a re-filing bar on October 11, 2019, requesting a refiling-bar of one year. On October 15, 2019, the Court dismissed the case for failure to file case commencement documents.

DISCUSSION

The court notes that it empowered to impose a refiling bar under 11 U.S.C. § 349(a).

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CONT... Octavio P Garcia

Chapter 7

As COLLIER notes, courts' analysis of this section is somewhat confused due to confounding "dismissal with prejudice" with "dismissal with injunction against future filings." COLLIER ON BANKRUPTCY ¶ 349.02[3]; *compare In re Garcia*, 479 B.R. 488 (Bankr. N.D. Ind. 2012) (denying motion for dismissal with prejudice, but imposing three-year refiling bar) *with In re Craighead*, 377 B.R. 648 (Bankr. N.D. Cal. 2007) (appearing to equate dismissal with prejudice with an injunction against refiling).

There is also a circuit split concerning whether an injunction on refiling for more than 180 days is allowed under the Bankruptcy Code. *Compare In re Frieouf*, 938 F.2d 1099 (10th Cir. 1991) (180 days is maximum allowed length of refiling injunction) *with Casse v. Key Bank Nat. Ass'n*, 198 F.3d 327 (2nd Cir. 1999) (injunction against filing for more than 180 days permissible). 11 U.S.C. § 349(a) reads:

Unless, the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(g) of this title.

The disagreement revolves around whether the qualifier "Unless, the court, for cause, orders otherwise" modifies the content after the semi-colon. *In re Leavitt* noted this disagreement, but since the court was dealing with a dismissal with prejudice, rather than an injunction against refiling, it did not resolve the issue. 209 B.R. 935, 942 (9th Cir. B.A.P. 1997). Within the Ninth Circuit, it appears the trend is to adopt the reasoning of the Second Circuit and allow injunctions for more than 180 days, and the Court agrees with that reading of the statute. *See e.g. In re Velasques*, 2012 WL 8255582 at *3 (Bankr. E.D. Cal. 2012).

Here, the instant bankruptcy is Debtor's fourth skeletal filing in the previous seven months. Furthermore, Debtor failed to disclose any previous filings in the voluntary petition, which is signed under penalty of perjury. For these reasons, the Court is inclined to find the requested one-year refiling bar to be appropriate in the circumstances presented.

Moreover, Debtor's failure to oppose is deemed consent to the relief requested pursuant to Local Rule 9013-1(h).

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CONT... Octavio P Garcia

Chapter 7

TENTATIVE RULING

The Court is inclined to either GRANT the motion to the extent of imposing a one-year filing bar, and otherwise DENY the motion as MOOT because Debtor's case has already been dismissed, or construe the motion as a motion to amend the dismissal order and GRANT the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Octavio P Garcia	Pro Se
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Movant(s):

United States Trustee (RS)	Pro Se
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Trustee(s):

Howard B Grobstein (TR)	Pro Se
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**United States Bankruptcy Court
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Wednesday, November 13, 2019

Hearing Room 303

11:00 AM

6:13-23186 Richard C Cox, Jr

Chapter 7

#15.00 Notice of Motion and Chapter 7 Trustees Motion for Order Disallowing Claim 17 of Richard and Donna Cox For Lack of Documentation; Or In the Alternative, Reducing Claim 17 to Reflect Amounts Paid by the Chapter 13 Trustee

Also #16 & #17

EH__

Docket 184

Tentative Ruling:

11/13/19

BACKGROUND:

On August 1, 2013, Richard Cox ("Debtor") filed a Chapter 13 voluntary petition. On September 26, 2013, Debtor's Chapter 13 plan was confirmed. Debtor's Chapter 13 was subsequently modified once. On June 30, 2016, Debtor's case was converted to Chapter 7. On January 6, 2017, Debtor received a Chapter 7 discharge.

On December 10, 2013, a proof of claim in the amount of \$34,000 ("Claim 17") was filed by Debtor on behalf of Richard & Donna Cox ("Creditors"), who appear to be his parents. On October 7, 2019, the Chapter 7 Trustee filed an objection to Claim 17, arguing that the claim does not contain adequate supporting information. Trustee asserts that he propounded a request for additional information upon Creditors, but that, despite being given more than 100 days to respond, Creditors took no action.

APPLICABLE LAW:

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CONT... Richard C Cox, Jr

Chapter 7

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

As a preliminary matter, the Court notes that 11 U.S.C. § 501(c) states that: "If a

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CONT... **Richard C Cox, Jr**

Chapter 7

creditor does not timely file a proof of such creditor's claim, the debtor or the trustee may file a proof of such claim." As outlined in FED. R. BANKR. P. Rule 3004, the debtor and the trustee have thirty days once the claim filing deadline has passed to file a proof of claim on behalf of a creditor. Here, the deadline to file proofs of claims was December 11, 2013, yet Debtor filed Claim 17 on December 10, 2013. Therefore, Debtor technically filed the proof of claim prematurely.

Turning to the merits of Claim 17, FED. R. BANKR. P. Rule 3001(c)(1) states the following: "Except for a claim governed by paragraph (3) of this subdivision, when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim." And FED. R. BANKR. P. Rule 3001(f) implies that a proof of claim's *prima facie* validity depends upon the claim being "executed and filed in accordance with these rules." Therefore, Claim 17 in this case is not entitled to *prima facie* validity.

Furthermore, as noted by the BAP: "If the creditor does not provide information or is unable to support its claim, then that in itself may raise an evidentiary basis to object to the unsupported aspects of the claim, or even a basis for evidentiary sanctions, thereby coming within Section 502(b)'s grounds to disallow the claim." *In re Heath*, 331 B.R. 424, 437 (B.A.P. 9th Cir. 2005). Here, Claim 17 contains no supporting information whatsoever and, despite now being given more than four months to provide such information or amend or supplement Claim 17, Creditors have taken no action. For that reason, and noting that Claim 17 is not entitled to *prima facie* validity, the Court finds it appropriate to disallow the claim.

Finally, the Court deems Creditors' failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

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CONT... Richard C Cox, Jr

Chapter 7

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 17 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Richard C Cox Jr

Represented By
Summer M Shaw

Movant(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

Trustee(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

**United States Bankruptcy Court
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11:00 AM

6:13-23186 Richard C Cox, Jr

Chapter 7

#16.00 Notice of Motion and Chapter 7 Trustees Motion for Order Reducing the Following Claims to Reflect Amounts Paid by the Chapter 7 Trustee: Claim 1 of Discover Bank, Claim 6 of Hibu Inc., Claim 14 of Citibank NA

Also #15 & #17

EH__

Docket 186

Tentative Ruling:

11/13/19

BACKGROUND:

On August 1, 2013, Richard Cox ("Debtor") filed a Chapter 13 voluntary petition. On September 26, 2013, Debtor's Chapter 13 plan was confirmed. Debtor's Chapter 13 was subsequently modified once. On June 30, 2016, Debtor's case was converted to Chapter 7. On January 6, 2017, Debtor received a Chapter 7 discharge.

On August 7, 2013, Discover Bank ("Discover") filed a proof of claim for an unsecured claim in the amount of \$5,994.51 ("Claim 1"). On September 9, 2013, Hibu, Inc. ("Hibu") filed a proof of claim for an unsecured claim in the amount of \$2,660 ("Claim 6"). And, on November 27, 2013, Citibank, N.A. ("Citibank") filed a proof of claim for an unsecured claim in the amount of \$9,424 ("Claim 14"). On October 7, 2019, the Chapter 7 trustee filed an objection to Claim 1, Claim 6, and Claim 14, seeking to have the claim reduced by the amount paid by the Chapter 13 trustee during the pendency of the Chapter 13 case.

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CONT... Richard C Cox, Jr

Chapter 7

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

**United States Bankruptcy Court
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11:00 AM

CONT... Richard C Cox, Jr

Chapter 7

As a preliminary matter, the Court notes that pursuant to FED. R. BANKR. P. Rule 1019(3) "[a]ll claims actually filed by a creditor before conversion of the case are deemed filed in the chapter 7 case." Therefore, Claim 1, Claim 6, and Claim 14 are all considered claims against the Chapter 7 bankruptcy estate.

The Chapter 7 Trustee's form claim objection primarily relies upon the failure of Discover Bank, Hibu, and Citibank to respond to the requests to amend their claim after conversion of the case. While the Court acknowledges that there is caselaw which supports that argument, that argument does not logically relate to the specific request here (i.e. reduction of the claim to reflect payments made by the Chapter 13 Trustee). In other words, it is not the failure to provide supporting information that is at the crux of this claim objection, it is the fact that the claims have already been partially satisfied.

Clearly, if a case is converted to Chapter 7 after confirmation of a Chapter 13 plan, a Chapter 7 trustee may be presented with claims that are properly filed and valid under FED. R. BANKR. P. Rule 1019 and 11 U.S.C. § 348, but which have been partially satisfied. While it does not appear that there is any statutory provision explicitly providing for a reduction of the claims, the Court concludes that § 502(b)(1) is sufficient and appropriately applied to this situation. Specifically, the amounts of Claim 1, Claim 6, and Claim 14 which were already paid by the Chapter 13 Trustee no longer represent claims which are enforceable against the debtor's or the debtor's property as a matter of law. Specifically, as is noted by the Chapter 7 Trustee and as reflected in docket number 120, the Chapter 13 Trustee disbursed \$1,232.84 to Discover Bank, \$547.07 to Hibu, and \$1,938.15 to Citibank. Therefore, the Court is inclined to reduce Claim 1, Claim 6, and Claim 14 by those amounts.

Additionally, the Court deems Creditors' failure to oppose to be consent to the relief

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requested pursuant to Local Rule 9013-1(h).

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TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, REDUCING Claim 1 to \$4,761.67, REDUCING Claim 6 to \$2,112.93, and REDUCING Claim 14 to \$7,485.85.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Richard C Cox Jr

Represented By
Summer M Shaw

Movant(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

Trustee(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

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6:13-23186 Richard C Cox, Jr

Chapter 7

#17.00 Notice of Motion and Chapter 7 Trustees Motion for Order Disallowing Claim 8 of Antio, LLC for Lack of Standing; or in the Alternative, Reducing Claim 8 to the Reflect Amounts Paid by the Chapter 13 Trustee

Also #15 & #16

EH ____

Docket 192

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/8/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard C Cox Jr

Represented By
Summer M Shaw

Movant(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

Trustee(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

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2:00 PM

6:19-11766 Hassan Mohamad Adib Yahya

Chapter 13

Adv#: 6:19-01084 SCHOOLSFIRST FEDERAL CREDIT UNION v. Yahya

#18.00 Motion for Default Judgment

EH ____

Docket 15

Tentative Ruling:

11/13/19

BACKGROUND

On March 5, 2019, Hassan Mohamad Adib Yahya ("Defendant") filed a Chapter 13 voluntary petition.

On May 22, 2019, Schoolsfirst Federal Credit Union ("Plaintiff") filed a non-dischargeability complaint against Defendant pursuant to 11 U.S.C. § 523(a)(2)(A). On July 22, 2019, the clerk of court entered default against Defendant.

On October 15, 2019, Plaintiff filed a motion for default judgment. The motion for default judgment indicates a hearing date of October 17, 2019, which was the date of the continued status conference. During the hearings on October 17, 2019, the Court orally granted the motion for default judgment. While neither FED. R. BANKR. P. Rule 7055 nor Local Rule 7055 explicitly provides for service upon a defaulted party who never appeared in the action, out of an abundance of caution the Court set the matter for hearing so that notice and service would comply with the more generic requirements of Local Rule 9013-1(d). On October 23, 2019, the clerk of court mailed notice of the hearing to Defendant.

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CONT... Hassan Mohamad Adib Yahya

Chapter 13

DISCUSSION

A. Entry of Default

FED. R. CIV. P. Rule 55 states that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed. R. Civ. P. 55(a). Local Rule 7055-1 provides further requirements relating to a motion for entry of default judgment, and those requirements have been substantially satisfied here.

B. Motion for Default Judgment

1. Proper Service of Summons and Complaint

FED. R. BANKR. P. Rule 7004(b)(1) states, in part:

[S]ervice may be made within the United States by first class mail postage prepaid as follows:

- (1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint to the individual's dwelling house or usual place of abode or to the place where the individual regularly conducts a business or profession.

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CONT... Hassan Mohamad Adib Yahya

Chapter 13

Here, it appears that the motion for default judgment has been properly served. Specifically, the complaint was mailed to Defendant at the address he listed on his bankruptcy petition.

2. Merits of Plaintiff's claim

Upon default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true. *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987); *see also Almog v. Golden Summit Investors Group, Ltd.*, 2012 WL 12867972 at *4 (C.D. Cal. 2012) ("When reviewing a motion for default judgment, the Court must accept the well-pleaded allegations of the complaint relating to liability as true.").

Here, the complaint includes a single cause of action under 11 U.S.C. § 523(a)(2)(A). Plaintiff relies upon the presumption of non-dischargeability outlined in § 523(a)(2)(C)(i)(I), which provides that "cash advances aggregating more than \$950 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable."

Here, Plaintiff asserts that Defendant had a credit card account with Plaintiff that had a credit limit of \$19,800. Plaintiff further asserts that Defendant spent \$19,864.05 between February 14, 2019, and March 6, 2019. Plaintiff also asserts that expenses incurred on March 5, 2019, and March 6, 2019, which total \$17,450, may have been incurred prepetition. Therefore, the debt at issue, to the extent incurred prepetition, is presumed nondischargeable under § 523(a)(2)(C)(i)(I).

The Court notes that there are two legal issues with Plaintiff's request for default

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Chapter 13

judgment. First, the Court notes that the vast majority of the debt incurred by Defendant appears to have been incurred postpetition. While Plaintiff asserts that the \$17,450 spent by Defendant on March 6, 2019, may have been incurred prepetition, there is no evidence establishing that that amount is a prepetition debt. To the contrary, the exhibit filed by Plaintiff seems to establish that that debt was actually incurred postpetition.

Regarding Plaintiff's request for the Court to issue a money judgment, the Court intends to deny such request for two reasons. First of all, Plaintiff has not clearly articulated a non-bankruptcy law basis for a money judgment. 11 U.S.C. § 523(a)(2) is not a basis to enter a money judgment; the plain language of the statute provides that it is a basis for finding a debt to be non-dischargeable. More importantly, however, it appears that the bulk of Plaintiff's claim may be a postpetition debt, and the Court is inclined to conclude that it does not even have jurisdiction to enter a money judgment against Defendant for a postpetition debt.

TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of holding Plaintiff's claim for prepetition charges to be nondischargeable under § 523(a)(2)(A), DENY the request without prejudice as to postpetition charges, and DENY the request to enter a money judgment.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Hassan Mohamad Adib Yahya

Represented By
Todd L Turoci

Defendant(s):

Hassan Mohamad Adib Yahya

Pro Se

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Movant(s):

SCHOOLSFIRST FEDERAL

Represented By
Paul V Reza

Plaintiff(s):

SCHOOLSFIRST FEDERAL

Represented By
Paul V Reza

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-11189 Mitchell C. Nelson

Chapter 7

Adv#: 6:19-01112 Bui v. Ward

#19.00 Motion for Default Judgment Against Defendant Leonard E. Ward

Also #20

EH ____

Docket 17

Tentative Ruling:

11/13/19

BACKGROUND

On February 15, 2019, Mitchell Nelson ("Debtor") filed a Chapter 7 voluntary petition. On May 28, 2019, Debtor received a discharge.

On August 6, 2019, Trustee filed a complaint against Leonard Ward ("Defendant") for: (1) breach of contract; (2) breach of oral contract; (3) account stated; (4) breach of the implied covenant of good faith and fair dealing; (5) unjust enrichment; (6) turnover of property of the estate; and (7) disallowance of claims. On September 13, 2019, the clerk of court entered default against Defendant. On October 4, 2019, Trustee filed a motion for default judgment against Defendant.

The relevant factual background is as follows. In May 2016, Defendant approached Debtor about providing a small business loan for Defendant's "clean up and scrap metal hauling business," representing that Defendant could repay the loan from proceedings from a pending civil suit pertaining to wrongful incarceration. On October 3, 2016, Debtor loaned Defendant \$65,000, to be repaid by December 1,

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2016, with \$10,000 in interest. After Defendant did not make any payment, the parties reached an oral agreement in January 2017 whereby Debtor would continue to loan Defendant money, and Defendant would repay the amount after resolving his civil suit. By September 2018, Debtor had loaned Defendant more than \$2.7 million without Defendant having made any payment. While not detailed in the body of the motion for default judgment, Exhibit 3 to the motion contains a copy of an incident report logged by the Riverside County Sheriff's Department which appears to indicate that Defendant repeatedly threatened and assaulted Debtor, causing Debtor to continue loaning money.

On October 25, 2018, Debtor issued a written demand for Defendant to repay \$2,707,000 within two weeks. Defendant did not make any payment. According to Trustee, on June 14, 2019, "the Trustee had a phone conversation with the Defendant where [he] acknowledged that he owed the money to the Debtor and was willing to sign a document reflecting the same." [Dkt. No. 17, pg. 4, lines 12-14].

DISCUSSION

A. Entry of Default

FED. R. CIV. P. Rule 55, incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7055, states that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed. R. Civ. P. 55(a). FED. R. CIV. P. Rule 55 and Local Rule 7055-1 provides further requirements relating to a motion for entry of default judgment, and those requirements have been substantially satisfied here.

B. Motion for Default Judgment

1. Proper Service of Summons and Complaint

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FED. R. BANKR. P. Rule 7004(b)(1) states, in part:

[S]ervice may be made within the United States by first class mail postage prepaid as follows:

- (1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint to the individual's dwelling house or usual place of abode or to the place where the individual regularly conducts a business or profession.

Here, it appears that the motion for default judgment has been properly served. Specifically, the complaint was mailed to Defendant at 108 N. Lowell St., Lake Elsinore, CA 92563, an address which is identified as Defendant's residence in various exhibits attached to the motion.

2. Merits of Plaintiff's claim

Upon default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true. *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987); *see also Almog v. Golden Summit Investors Group, Ltd.*, 2012 WL 12867972 at *4 (C.D. Cal. 2012) ("When reviewing a motion for default judgment, the Court must accept the well-pleaded allegations of the complaint relating to liability as true.").

Here, the complaint includes seven causes of action, although the motion for default judgment does not pursue the third through seventh causes of action. Instead, Trustee simply relies on the first two causes of action: (1) breach of contract; and (2) breach of

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oral contract.

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The elements of a breach of contract claim under California law are: (1) the existence of a contract, (2) plaintiff's performance (or excuse for nonperformance) under the contract, (3) defendant's breach of the contract, and (4) damages resulting from defendant's breach." *AMG & Assocs., LLC v. AmeriPride Servs., Inc.*, 2016 WL 9275402 at *4 (C.D. Cal. 2016) (citing *Richman v. Hartley*, 224 Cal. App. 4th 1182, 1186 (Cal. Ct. App. 2014)). Here, the Court concludes that Trustee has sufficiently established the elements of its first cause of action. Specifically, Trustee has established the first element by attaching a copy of a written note whereby Defendant promised to repay Debtor \$75,000 by December 1, 2016 in consideration for the receipt of \$65,000. Trustee has established the second element because the note, signed by Defendant, acknowledges receipt of \$65,000 from Debtor. Trustee has established the third element by asserting that Defendant did not make the required contractual payment, which is further established by the supporting evidence, namely Exhibit 3. Finally, Trustee has established the fourth element, damages, because Defendant's failure to make the contractual payment naturally damaged Debtor.

As stated by Trustee, the elements of a breach of oral contract are the same as the elements for a breach of written contract. *See, e.g., Mountain View Surgical Ctr. v. Cigna Health Corp.*, 2015 WL 519066 at *2 (C.D. Cal. 2015); *Stockton Mortg., Inc. v. Tope*, 233 Cal. App. 4th 437 (Cal. Ct. App. 2014). For the reasons recited in the previous paragraph, Trustee has established the second element of a claim for breach of oral contract through alleging and providing a list of payments from Debtor to Defendant totaling \$2,707,700. These factual allegations, taken as true after the default of Defendant, establish the second element.

The first element, existence of an oral contract, is less clear. Trustee's motion for default judgment argues the following: "In or about January 2017, Defendant entered into an oral contract with Debtor whereby Debtor agreed to continue to loan money for Defendant's business expansion and Defendant continued to promise repayment of the loan as soon as his civil suit was resolved." [Dkt. No. 17, pg. 7, lines 21-23].

Without determining whether Trustee has sufficiently alleged the existence of an

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enforceable oral contract, the Court notes that the fatal flaw in Trustee's argument is that, according to the contractual terms identified by Trustee, Defendant has not actually breached the oral contract. Specifically, pursuant to the very informal oral contract outlined by Trustee, Defendant was not contractually committed to repaying any money until the civil suit was resolved. Trustee not having alleged that the civil suit was resolved, the Trustee cannot establish the third element of the second cause of action.

TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of awarding Trustee judgment on the first claim for relief. Trustee to address the next steps in light of this tentative ruling.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mitchell C. Nelson

Represented By
Douglas A Plazak

Defendant(s):

Leonard E. Ward

Pro Se

Movant(s):

Lynda T Bui

Represented By
Lauren E Raya
Rika Kido

Plaintiff(s):

Lynda T Bui

Represented By
Lauren E Raya

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Rika Kido

Trustee(s):

Lynda T. Bui (TR)

Represented By
Leonard M Shulman
Rika Kido

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6:19-11189 Mitchell C. Nelson

Chapter 7

Adv#: 6:19-01112 Bui v. Ward

#20.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01112. Complaint by Lynda T Bui against Leonard E. Ward. (Charge To Estate - \$350.00). for: (1) Breach of Contract; (2) Breach of Oral Contract; (3) Account Stated; (4) Breach of the Implied Covenant of Good Faith and Fair Dealing; (5) Unjust Enrichment [11 U.S.C. § 105]; (6) Turnover of Property of the Estate [11 U.S.C. § 542]; and (7) Disallowance of Claims [11 U.S.C. § 502(d)] Nature of Suit: (14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Raya, Lauren)

From: 10/9/19

Also #19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mitchell C. Nelson

Represented By
Douglas A Plazak

Defendant(s):

Leonard E. Ward

Pro Se

Plaintiff(s):

Lynda T Bui

Represented By
Lauren E Raya
Rika Kido

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Trustee(s):

Lynda T. Bui (TR)

Represented By
Leonard M Shulman
Rika Kido

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6:18-20247 Stephen Lynn Overmyer

Chapter 7

Adv#: 6:19-01039 McCune v. Overmyer

#21.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01039. Complaint by B. Lynn McCune against Stephen Overmyer . false pretenses, false representation, actual fraud))

From: 4/17/19, 7/31/19, 7/31/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Lynn Overmyer

Represented By
Gordon L Dayton

Defendant(s):

Stephen Overmyer

Represented By
Gordon L Dayton

Plaintiff(s):

B. Lynn McCune

Represented By
James A Rainboldt

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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6:17-15301 Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

#22.00 CONT Chapter 7 Trustee's Motion for Order Approving Compromise of Controversy under Rule 9019

From: 9/18/19, 10/16/19, 11/6/19

EH ____

Docket 24

Tentative Ruling:

9/18/19

BACKGROUND

On June 24, 2017, Jaspar & Brenda Stevens ("Debtors") filed a Chapter 7 voluntary petition. On October 10, 2017, Debtors received a discharge, and the case was closed the next day.

On July 24, 2019, UST filed a motion to reopen the case so that Trustee could investigate a proposed settlement of a lawsuit; the case was reopened the same day. On August 16, 2019, Trustee filed a motion to approve compromise. The compromise relates to the settlement of the state court litigation initially commenced by Debtors against Ocwen Loan Servicing, LLC. The material terms of the compromise are that Trustee shall execute a request for dismissal of the state court litigation in return for \$50,000.

On August 28, 2019, Debtors filed an opposition to the compromise motion. Debtors argue that the state court lawsuit was properly abandoned upon the conclusion of Debtors' bankruptcy case, and that, as a result, the claims are not property of the estate

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and cannot be compromised by Trustee. On September 10, 2019, Trustee filed a reply arguing that the state court litigation was not abandoned.

The relevant material facts are not in dispute. Debtors concede that the litigation was not disclosed on their schedules. Trustee concedes that the litigation was disclosed on the statement of financial affairs. The parties dispute revolves around the interpretation of the word "scheduled" in 11 U.S.C. § 554(c).

DISCUSSION

11 U.S.C. § 554(c) states: "Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title." "Unless the court orders otherwise, property of the estate that is not abandoned under this section and that is not administered in the case remains property of the estate." 11 U.S.C. § 554(d). 11 U.S.C. § 521(a)(1) states

- (a) The debtor shall
 - (1) file
 - (A) a list of creditors; and
 - (B) unless the court orders otherwise –
 - (i) a schedule of assets and liabilities;
 - (ii) a schedule of current income and current expenditures
 - (iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate –

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(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

(II) if not attorney is no indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition

Debtors primarily rely upon *In re Hill*, 195 B.R. 147 (Bankr. D.N.M. 1996). Trustee

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implicitly concedes that *In re Hill* supports Debtors' position, but Trustee argues that "*In re Hill* relied on an erroneous statutory interpretation, went against policy and authority in relieving debtors of their obligations and consequences, and was essentially disposed of on other grounds that section 554(c), and should therefore not be followed by this Court." [Dkt. No. 30, pg. 7, lines 22-24]. *In re Hill* concluded that:

The language of § 521 itself supports a broader reading of "scheduled" in § 554(c), because the paragraph which follows paragraph § 521(1) makes a particular reference to "debtor's schedule of assets and liabilities." The use of this specific reference strongly suggests that the drafts of the Code will say "schedule of assets and liabilities" when that narrow requirement is intended, and that a reference to § 521(1) is a reference to § 521(1) as a whole.

Id. at 150; *see also U.S. ex rel. Fortenberry v. Holloway Group, Inc.*, 515 B.R. 827 (W.D. Okla. 2014) ("In other words the Court finds that the 'scheduled' requirement in § 554(c) refers to all of the disclosures required in § 521(a)(1), including the debtor's statement of financial affairs.").

On the other hand, Trustee points to multiple cases from the Bankruptcy Appellate Panel which held that "[m]entioning an asset in the statement of financial affairs is not the same as scheduling it for purposes of abandonment under § 554(c)." *In re Pretscher-Johnson*, 2017 WL 2779977 at *5 (B.A.P. 9th Cir. 2017); *In re Kayne*, 453 B.R. 372 (B.A.P. 9th Cir. 2011) (same); *see also In re Fossey*, 119 B.R. 268 (D. Utah 1990) ("The case have held that the word 'scheduled' in § 554(c) refers to property listed in the debtor's Schedule of Assets and Liabilities."). While Debtor has provided a recent Bankruptcy Appellate Panel case which seems to backtrack from the Panel's earlier position to a degree, as noted by Trustee, the reasoning in *In re Tadayon*, 2019 WL 1923044 (B.A.P. 9th Cir. 2019) is less than clear, bordering on bizarre.

Noting that the majority of the caselaw on this issue favors the position of the Trustee, the Court is inclined to conclude that the listing of the pending lawsuit in the statement of financial affairs is inadequate to trigger a technical

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CONT... Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

abandonment of that asset pursuant to 11 U.S.C. § 554(c). While the Court acknowledges that the drafting of § 554(c) is somewhat ambiguous given that the statute could refer to § 521(a)(1)(B)(i), instead of § 521(a)(1) generally, the use of the word "scheduled" must be interpreted in relation to the preparation of "schedules." Divorcing the verb "scheduled" from the noun "schedules" does not appear to be a reasonable approach to statutory interpretation, especially considering that in other sections, the Code includes the phrase "neither listed nor scheduled under section 521(a)(1)." 11 U.S.C. § 523(a)(3).

Turning to the compromise motion, FED. R. BANKR. P. Rule 9019 provides that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

The Ninth Circuit Court of Appeals have previously outlined the factors to be considered in approving a compromise pursuant to Rule 9019: (1) the probability of success in the litigation; (2) the difficulties to be encountered in the matter of collection; (3) the complexity, expense, inconvenience and delay of litigation; and (4) the interest of creditors with deference to their reasonable views. *See In re A&C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). The listed factors assist the Court in determining "the fairness, reasonableness and adequacy of a proposed settlement agreement." *Id.*

Here, the evidence before the Court is insufficient to assess the "fairness, reasonableness and adequacy" of the compromise. Specifically, the Court notes that the compromise motion does not include any meaningful detail regarding the nature of the state court litigation to be compromise, nor does the motion contain any description of the amount of damages sought in state court. Because of this absence of information, the Court is wholly unable to assess the reasonableness of the \$50,000 to be received by the bankruptcy estate.

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CONT... Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

TENTATIVE RULING

The Court is inclined to CONTINUE the matter for supplemental evidence as to the *A&C Properties* elements.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jasper Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Joint Debtor(s):

Brenda Louise Murray Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Movant(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

**United States Bankruptcy Court
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6:17-13853 Malik Muhammad Asif

Chapter 7

Adv#: 6:17-01197 Itria Ventures, LLC v. Asif et al

#23.00 Status Conference RE: [1] Adversary case 6:17-ap-01197. Complaint by Itria Ventures, LLC against Malik Muhammad Asif, Zobia Asif. false pretenses, false representation, actual fraud)) (Chekian, Michael)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malik Muhammad Asif

Represented By
Todd L Turoci

Defendant(s):

Malik Muhammad Asif

Represented By
David T Egli

Zobia Asif

Represented By
David T Egli

Joint Debtor(s):

Zobia Asif

Represented By
Todd L Turoci

Plaintiff(s):

Itria Ventures, LLC

Represented By
Michael F Chekian

Trustee(s):

Arturo Cisneros (TR)

Represented By
Thomas H Casey

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CONT... Malik Muhammad Asif

Chapter 7

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6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#24.00 CONT Motion RE: Objection to Claim Number 11 by Claimant Natasha Reynoso and Mark Reynoso
HOLDING DATE

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18, 2/6/19, 4/17/19, 8/21/19, 11/13/19

Also #25

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Movant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#25.00 Order to show cause why claim objections should not be overruled or sanctions issues for failure to prosecute the matter

Also #24

EH__

Docket 94

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#26.00 CONT Status Conference RE: [13] Amended Complaint by Michael J Hemming on behalf of Mark & Natasha Reynoso against Anne Louise Goodman, Douglas Edward Goodman. (RE: related document(s)1 Adversary case 6:16-ap-01277. Complaint by Mark & Natasha Reynoso against Douglas Edward Goodman, Anne Louise Goodman. false pretenses, false representation, actual fraud) filed by Plaintiff Mark & Natasha Reynoso)
(Holding Date)

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18, 2/6/19, 4/17/19, 8/21/19, 10/16/19

Also #27

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By

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CONT... Douglas Edward Goodman

Edward T Weber

Chapter 13

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#27.00 Order to appear and show cause why case should not be dismissed or sanctions issued for failure to prosecute the matter

Also #26

EH__

Docket 167

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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CONT... Douglas Edward Goodman

Chapter 13

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2:00 PM

6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#28.00 Order to show cause why adversary proceeding should not be dismissed for lack of prosecution

Also #29 & #30

EH__

Docket 203

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luevina Henry Pro Se

Defendant(s):

Real Time Resolutions Inc Represented By
Renee M Parker
James F Lewin

THE BANK OF NEW YORK Represented By
Renee M Parker
James F Lewin

Riverside County Sheriff Represented By
Ronak N Patel

Tavares Pro Se

Plaintiff(s):

Luevina Henry Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
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CONT...

Luevina Henry

Chapter 13

**United States Bankruptcy Court
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2:00 PM

6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#29.00 CONT Motion in Limine by Defendants Real Time Resolutions, Inc. and The Bank of New York Mellon fka The Bank of New York, as Trustee for the Certification Holders of CWHEQ Revolving Home Equity Loan Trust, Series 2007-D for an Order to exclude evidence to be offered by Plaintiff at trial

From: 10/2/19

Also #28 & #30

EH__

Docket 192

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luevina Henry

Pro Se

Defendant(s):

Real Time Resolutions Inc

Represented By
Renee M Parker
James F Lewin

THE BANK OF NEW YORK

Represented By
Renee M Parker
James F Lewin

Riverside County Sheriff

Represented By
Ronak N Patel

Tavares

Pro Se

United States Bankruptcy Court
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CONT... Luevina Henry

Chapter 13

Movant(s):

Real Time Resolutions Inc

Represented By
Renee M Parker
James F Lewin

THE BANK OF NEW YORK

Represented By
Renee M Parker
Renee M Parker
James F Lewin
James F Lewin

Plaintiff(s):

Luevina Henry

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:16-16720 Luevina Henry

Chapter 13

Adv#: 6:17-01187 Henry v. Real Time Resolutions Inc et al

#30.00 CONT Pre-Trial Conference RE: [1] Adversary case 6:17-ap-01187. Complaint fld 8-25-17 - Dischargeability, willful and malicious injury, validity, priority or extent of lien or other interest in property, injunctive relief

From: 8/28/19, 10/2/19

Also #28 & #29

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luevina Henry

Pro Se

Defendant(s):

Real Time Resolutions Inc

Represented By
Renee M Parker
James F Lewin

THE BANK OF NEW YORK

Represented By
Renee M Parker
James F Lewin

Riverside County Sheriff

Represented By
Ronak N Patel

Tavares

Pro Se

Plaintiff(s):

Luevina Henry

Pro Se

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CONT... Luevina Henry

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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3:00 PM

6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#31.00 Status Conference Hearing RE: Complaint by William G Morschauser against Continental Capital LLC , Stephen Collias , Jesse Bojorquez , American Business Investments , Mohammed Abdizadeh

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 12/11/19 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan

Stephen Collias

Represented By
Cara J Hagan

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

Mohammed Abdizadeh

Pro Se

**United States Bankruptcy Court
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3:00 PM

CONT... Devore Stop A General Partners

Chapter 7

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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11:00 AM

6:17-16267 Samuel T Saavedra and Suzanne M Saavedra

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3542 North Oranewood Avenue, Rialto, CA 92377

MOVANT: U.S. BANK, NATIONAL ASSOCIATION AS LEGAL TITLE TRUSTEE FOR TRUMAN 2016 SC6 TITLE TRUST

EH__

Docket 57

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). DENY request for relief from § 1301(a) co-debtor stay because the motion was not served on any co-debtor as that term is used in the statute. GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request for adequate protection as moot.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Samuel T Saavedra

Represented By
Michael R Totaro

Joint Debtor(s):

Suzanne M Saavedra

Represented By
Michael R Totaro

**United States Bankruptcy Court
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11:00 AM

CONT... Samuel T Saavedra and Suzanne M Saavedra

Chapter 13

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:18-14816 Daniel W. Sargent

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: (2016 Jeep Grand Cherokee Vin # 1C4RJEBG6GC385455)

MOVANT: ALLY BANK LEASE TRUST

EH__

Docket 40

***** VACATED *** REASON: ORDER ENTERED 11/18/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel W. Sargent

Represented By
Julie J Villalobos

Movant(s):

Ally Bank Lease Trust

Represented By
Adam N Barasch

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 303

11:00 AM

6:19-13328 Luis Antonio Gaeta

Chapter 13

#3.00 Notice of Motion and 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) 2013 Ford Edge SEL Sport Utility 4D (VIN#: 2FMDK3JC6DBB46134). (3))

MOVANT: BALBOA THRIFT & LOAN

EH__

Docket 39

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

Debtor had a previous Chapter 13 case dismissed on March 28, 2019. Pursuant to the operation of 11 U.S.C. § 362(c)(3)(A), the automatic stay, absent further order of the Court, was set to terminate on May 19, 2019. On May 7, 2019, Debtor filed a motion to continue the automatic stay and a corresponding application shortening time. The Court, however, denied the application shortening time and, therefore, the automatic stay expired pursuant to the operation of § 362(c)(3)(A) on May 19, 2019. On that basis, the Court will GRANT the motion, confirming that the automatic stay is longer in effect.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Luis Antonio Gaeta

Represented By
Daniel King

**United States Bankruptcy Court
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11:00 AM

CONT... Luis Antonio Gaeta

Chapter 13

Movant(s):

Balboa Thrift & Loan

Represented By
Keith E Herron

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-16072 Sara Rolston

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 BMW 2 Series 230i Coupe 2D

MOVANT: BMW BANK OF NORTH AMERICA

EH__

Docket 22

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: Yes

Movant to apprise the Court of the status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sara Rolston

Represented By
Paul Y Lee

Movant(s):

BMW Bank of North America

Represented By
Cheryl A Skigin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-17112 Jeff Book

Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 CHEVROLET SILVERADO, VIN: 1GC4 C0C8 XFF1 36295

MOVANT: MECHANICS BANK, A CALIFORNIA BANKING CORPORATION,
SUCCESSOR BY MERGER TO CALIFORNIA REPUBLIC BANK

EH ____

Docket 21

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: Late

Parties to address the merits of the late-filed opposition.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jeff Book

Represented By
Eric C Morris

Movant(s):

MECHANICS BANK

Represented By
Vincent V Frounjian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-17205 Steve Everett and Jennifer Everett

Chapter 7

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Ford Edge

MOVANT: EXETER FINANCE LLC

EH__

Docket 13

Tentative Ruling:

11/19/2019

Service is Improper
Opposition: None

First of all, the Court notes that Local Rule 9013-1(d) requires matters that are to be set for hearing to be served on twenty-one days' notice. Here, Movant served this motion twenty days prior to the scheduled hearing.

More importantly, 11 U.S.C. § 362(h)(1)(A) provides:

(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) –

(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property *or to indicate in such statement that the debtor will either* surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c)

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CONT...

Steve Everett and Jennifer Everett

Chapter 7

applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable;

(emphasis added). Here, Debtor failed to address the subject collateral in his statement of intention. Therefore, the automatic stay has terminated as a matter of law. The Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Steve Everett

Represented By
Edward T Weber

Joint Debtor(s):

Jennifer Everett

Represented By
Edward T Weber

Movant(s):

Exeter Finance LLC

Represented By
Alan Leeth

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-17598 Anthea Gladys Bourque

Chapter 7

#7.00 Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Insurance proceeds

MOVANT: SANTANDER CONSUMER USA INC.

EH__

Docket 8

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Anthea Gladys Bourque

Represented By
Alec L Harshey

Movant(s):

Santander Consumer USA Inc.

Represented By
Sheryl K Ith

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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11:00 AM

6:19-17611 Johnny Ortega, Jr. and Alexis Monique Thompson

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Chevrolet Silverado 1500, VIN: 3GCPCREC8JG330995

MOVANT: AMERICREDIT FINANCIAL SERVICES INC. DBA GM FINANCIAL

EH__

Docket 12

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request for adequate protection as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Johnny Ortega Jr.

Represented By
Steven A Alpert

Joint Debtor(s):

Alexis Monique Thompson

Represented By
Steven A Alpert

Movant(s):

AmeriCredit Financial Services, Inc.

Represented By

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**CONT... Johnny Ortega, Jr. and Alexis Monique Thompson
Sheryl K Ith**

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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11:00 AM

6:19-18380 Laura Marie Beauchamp

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6084 Holland Court, Corona, CA 92880

MOVANT: THE BANK OF NEW YORK MELLON

EH ____

Docket 17

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request for adequate protection as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Laura Marie Beauchamp

Represented By
Ronald W Ask

Movant(s):

THE BANK OF NEW YORK

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, November 19, 2019

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11:00 AM

6:19-18669 Patrick Kojima

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 FORD EDGE, VIN 2FMPK3J82HBB61910

MOVANT: CAB WEST LLC

EH__

Docket 24

Tentative Ruling:

11/19/2019

Service is Improper

Opposition: None

The Court notes that the proof of service attached to the motion identifies a service date of September 24, 2019, a prepetition date. Movant to address this service deficiency.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Patrick Kojima

Represented By
Edward J. Fetzer

Movant(s):

Cab West, LLC

Represented By
Sheryl K Ith

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-18796 Gretha A Phillips

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 66755 1st Street, Desert Hot Springs, CA 92240

MOVANT: TIAA FSB

EH__

Docket 9

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2, 3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Gretha A Phillips

Represented By
Christopher Hewitt

Movant(s):

TIAA FSB

Represented By
Darlene C Vigil

Trustee(s):

Lynda T. Bui (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-18912 Lisa Bridges

Chapter 13

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 3100 Van Buren Blvd. #917, Riverside, CA 92503

MOVANT: 3100 VAN BUREN BOULEVARD APARTMENTS INVESTORS LLC

EH__

Docket 8

*** VACATED *** REASON: CASE DISMISSED 10/28/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lisa Bridges

Pro Se

Movant(s):

3100 VAN BUREN BOULEVARD

Represented By
Scott Andrews

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-18962 Walter Chavira

Chapter 7

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA ACCORD, VIN: 1HGC R2F3 0HA0 17050

MOVANT: MECHANICS BANK, A CALIFORNIA BANKING CORPORATION

EH ____

Docket 9

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request for adequate protection as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Walter Chavira

Represented By
Nancy Korompis

Movant(s):

MECHANICS BANK

Represented By
Vincent V Frounjian

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-19053 Jose Diaz

Chapter 7

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 17369 Marygold Avenue, Bloomington, CA 92316

MOVANT: RESIDENTIAL BANCORP

EH__

Docket 11

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request for adequate protection as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jose Diaz

Pro Se

Movant(s):

RESIDENTIAL BANCORP

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-19253 Nery B. Mejia

Chapter 13

#15.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 25276 Drake Dr. Moreno Valley, CA 92553

MOVANT: NERY B MEJIA

EH__

Docket 6

***** VACATED *** REASON: CASE DISMISSED 11/8/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nery B. Mejia

Represented By
Jaime A Cuevas Jr.

Movant(s):

Nery B. Mejia

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-19345 Michael Christopher Oropallo and Lauren Elaine Oropallo Chapter 13

#16.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 2015 Ford Explorer

MOVANT: MICHAEL AND LAUREN OROPALLO

EH__

Docket 13

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

Debtor had a bankruptcy case dismissed in the previous calendar year after failing to perform the terms of a plan confirmed by the Court. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(C)(i)(II)(cc), the instant bankruptcy case is presumed to have been filed in bad faith. Pursuant to 11 U.S.C. § 362(c)(3)(C), the Court requires "clear and convincing" evidence to rebut the presumption of bad faith. Here, Debtor has not provided clear evidence regarding a change in circumstance, only asserting that their income and expenses have "stabilized." More importantly, the secured creditor was not served pursuant to FED. R. BANKR. P. Rule 7004(h) as required by the Court's procedures for hearings on motions to continue the automatic stay. For all these reasons, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michael Christopher Oropallo

Represented By
Rabin J Pournazarian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

CONT... Michael Christopher Oropallo and Lauren Elaine Oropallo

Chapter 13

Joint Debtor(s):

Lauren Elaine Oropallo

Represented By
Rabin J Pournazarian

Movant(s):

Michael Christopher Oropallo

Represented By
Rabin J Pournazarian

Lauren Elaine Oropallo

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-19488 Aron Christopher Wright

Chapter 13

#17.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate: 36247 Stableford Court, Beaumont, CA 92223

MOVANT: ARON CHRISTOPHER WRIGHT

EH__

Docket 10

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

The Court, having reviewed the motion, notice appearing proper, no opposition having been filed, and good cause appearing, the Court is inclined to GRANT the motion to the extent of CONTINUING the automatic stay as to all creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Aron Christopher Wright

Represented By
Tom A Moore

Movant(s):

Aron Christopher Wright

Represented By
Tom A Moore

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-19593 Jose Antonio Mele and Victoria Isabel Mele

Chapter 13

#18.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate: 6224 Stanton Ave., Highland, CA 92346

MOVANT: JOSE MELE & VICTORIA MELE

EH__

Docket 10

Tentative Ruling:

11/19/2019

Service is Improper

Opposition: None

Judge Houle's self-calendaring procedures require that motions to continue the automatic stay that are set on shortened notice must be served on secured creditors pursuant to FED. R. BANKR. P. Rule 7004. Here, it does not appear that either of the secured creditors, United Wholesale Mortgage and Fast Auto Loans, were served pursuant to Rule 7004, with the former being served at a PO Box. The Court also notes that the face page of the motion simple states that notice is being directed to "all interested parties" rather than identifying the specific secured creditors. Moreover, as to the merits, the evidence does not address the cost of "other forms of treatment" that Debtor will incur, and whether those costs are covered by insurance. Therefore, the Court is inclined to CONTINUE the hearing on the motion for proper service of an amended motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jose Antonio Mele

Represented By
Chris A Mullen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

CONT... Jose Antonio Mele and Victoria Isabel Mele

Chapter 13

Joint Debtor(s):

Victoria Isabel Mele

Represented By
Chris A Mullen

Movant(s):

Jose Antonio Mele

Represented By
Chris A Mullen

Victoria Isabel Mele

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-19251 Adam Brian Britt and Kenya Lashawn Britt

Chapter 13

#18.10 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 3046 Statice Court, Hemet, CA 92545

MOVANT: ADAM AND KENYA BRITT

From: 11/12/19

EH ____

Docket 10

Tentative Ruling:

TENTATIVE RULING:

11/12/19

Service: Proper
Opposition: None

Debtors failed to explain why their son's ailment will not be a continuing problem for their plan. Appearing that Debtors failed to provide sufficient evidence to rebut the statutory presumption of 11 U.S.C. § 362(c)(3)(C)(ii) that the case was not filed in good faith, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Adam Brian Britt

Represented By
Matthew D. Resnik

Joint Debtor(s):

Kenya Lashawn Britt

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

CONT... Adam Brian Britt and Kenya Lashawn Britt

Chapter 13

Matthew D. Resnik

Movant(s):

Adam Brian Britt

Represented By
Matthew D. Resnik

Kenya Lashawn Britt

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, November 19, 2019

Hearing Room 303

11:00 AM

6:19-19680 Andrea Linda Santean-Whippie

Chapter 7

#18.20 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 14 Bellissimo Court Rancho Mirage, CA 92270

MOVANT: KIRK IWANOWSKI, JACQUELINE KATZ

EH__

Docket 9

Tentative Ruling:

11/19/2019

Service is Proper

Opposition: Yes

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Andrea Linda Santean-Whippie

Pro Se

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#19.00 (Jointly Administered - LEAD CASE)

CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19, 5/8/19, 7/31/19, 9/17/19

Also #20 & #21

EH__

Docket 630

***** VACATED *** REASON: CASE DISMISSED 11/12/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By

James C Bastian Jr

Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#20.00 (Jointly Administered with Inland Machinery Inc)
CONT Order (1) Setting Scheduling Hearing and Case Management
Conference and (2) Requiring Status Report

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18,
10/16/18, 12/19/18, 2/27/19, 5/8/19, 7/31/19, 9/17/19

Also #19 & #21

EH__

Docket 630

***** VACATED *** REASON: CASE DISMISSED 11/12/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

#21.00 (Jointly Administered with Another Meridian Company LLC)
CONT Order (1) Setting Scheduling Hearing and Case Management
Conference and (2) Requiring Status Report

From: 3/7/17, 7/11/17, 7/24/17, 9/26/17, 10/24/17, 1/30/18, 2/27/18, 10/9/18,
10/16/18, 12/19/18, 2/27/19, 5/8/19, 7/31/19, 9/17/19

Also #19 & #20

EH__

Docket 630

***** VACATED *** REASON: CASE DISMISSED 11/12/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#22.00 CONT Insurance Company of the West 's Notice of Motion and Motion for Summary Judgment or, In the Alternative, for Attorneys' Fees and Costs Pursuant to the Common Fund Doctrine
(Holding Date)

From: 7/16/19, 9/17/19

Also #23 & #24

EH__

Docket 74

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

CONT... ASR Constructors Inc a California Corporation Chapter 11

United states of america Represented By
Charles Parker
Najah J Shariff

Carlin Law Group APC Represented By
Kevin R Carlin

DOES 1 through 10, inclusive Pro Se

Movant(s):

Insurance Company Of The West Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Plaintiff(s):

ASR Constructors Inc a California Represented By
James C Bastian Jr
Melissa Davis Lowe
Jennifer Leland

Another Meridian Company, LLC Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc. Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#23.00 CONT Plaintiff's Notice of Additional Funds to Interplead; Declaration of Melissa Davis Lowe in Support Thereof
(HOLDING DATE)

From: 7/30/19, 9/17/19

Also #22 & #24

EH ____

Docket 87

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

United states of america

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

CONT... ASR Constructors Inc a California Corporation Chapter 11

Charles Parker
Najah J Shariff

Carlin Law Group APC

Represented By
Kevin R Carlin

DOES 1 through 10, inclusive

Pro Se

Movant(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Jennifer Leland

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

Plaintiff(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Jennifer Leland

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

6:13-25794 ASR Constructors Inc a California Corporation

Chapter 11

Adv#: 6:17-01286 ASR Constructors Inc a California Corporation et a v. Insurance Company

#24.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01286. Complaint by ASR Constructors Inc a California Corporation, Another Meridian Company, LLC, Inland Machinery, Inc. against Gotte Electric, Inc., Insurance Company Of The West, Employment Development Department, Trico-Savi Business Park, L.P., a California limited partnership, Angela Denise McKnight, Steven Schonder, Western Alliance Bank, an Arizona corporation, United states of america, Carlin Law Group APC, Leducor Construction, Inc., a Washington corporation, DOES 1 through 10, inclusive. (Charge To Estate - \$350.00). Complaint in Interpleader Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Bastian, James)
Trico-Savi Business Park L.P. - Dismissed 12/28/17
Western Alliance Bank, dba Torrey Pines Bank - Dismissed 2/1/18
Gotte Electric, Inc - Dismissed 3/14/18
Leducor Construction Inc - Dismissed 3/26/18

From: 2/27/18, 10/9/18, 10/16/18, 12/19/18, 2/27/19, 5/8/19, 7/31/19, 9/17/19

Also #22 & #23

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

CONT... ASR Constructors Inc a California Corporation

Chapter 11

Defendant(s):

Insurance Company Of The West

Represented By
Jennifer Leland
David B Shemano
Howard J Weg

Employment Development

Represented By
Elisa B Wolfe-Donato

Angela Denise McKnight

Pro Se

Steven Schonder

Pro Se

United states of america

Represented By
Charles Parker
Najah J Shariff

Carlin Law Group APC

Represented By
Kevin R Carlin

DOES 1 through 10, inclusive

Pro Se

Plaintiff(s):

ASR Constructors Inc a California

Represented By
James C Bastian Jr
Melissa Davis Lowe
Jennifer Leland

Another Meridian Company, LLC

Represented By
James C Bastian Jr
Melissa Davis Lowe

Inland Machinery, Inc.

Represented By
James C Bastian Jr
Melissa Davis Lowe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

6:17-15816 Integrated Wealth Management Inc

Chapter 11

Adv#: 6:19-01100 Issa v. Delaney et al

#25.00 Notice of Motion and Motion to Dismiss filed by Defendant Ryan Delaney

EH ____

Docket 34

*** VACATED *** REASON: ORDER ENTERED 11/4/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Integrated Wealth Management Inc

Represented By
Andrew B Levin
Robert E Opera
Jim D Bauch

Defendant(s):

Ryan Delaney

Represented By
Paul A Reynolds

John Wong

Represented By
David P Bleistein
Lisa Hiraide

Movant(s):

Ryan Delaney

Represented By
Paul A Reynolds

Plaintiff(s):

J. Michael Issa

Represented By
Joseph R Ignatuk

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#26.00 CONT Debtor's Motion to Dismiss Chapter 11 Case

From: 7/16/19, 8/20/19, 10/29/19

Also #27

EH ____

Docket 162

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

Movant(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

6:18-16149 Richard Garavito

Chapter 11

#27.00 CONT Order (1) Setting Scheduling Hearing and Case Management Conference and (2) Requiring Status Report

From: 8/21/18, 10/16/18, 12/4/18, 12/18/18, 1/15/19, 2/5/19, 4/16/19, 5/28/19, 7/16/19, 8/20/19, 10/29/19

Also #26

EH __

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Garavito

Represented By
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 19, 2019

Hearing Room 303

2:00 PM

6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#28.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 8/28/18, 9/25/18, 10/30/18, 11/13/18, 12/18/18, 2/26/19, 3/27/19, 5/1/19, 7/30/19, 9/17/19

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 20, 2019

Hearing Room 303

11:00 AM

6:11-12667 Maximino Romero Torres and Rebecca Anne Torres

Chapter 7

#1.00 Motion to Reopen Chapter 7 Case

EH__

Docket 49

Tentative Ruling:

MOTION TO REOPEN CASE TO AVOID LIEN

11/20/19

BACKGROUND

On January 26, 2011, Maximino Romero Torres and Rebecca Anne Torres (collectively "Debtors") filed a Chapter 7 voluntary petition. On May 19, 2011, Debtors' debts were discharged, and, on May 23, 2011, Debtors' Chapter 7 voluntary petition was closed.

Eight years later on February 15, 2019, Debtors filed a motion to reopen their Chapter 7 case (the "First Reopening Motion"). (Dkt. No. 25). The motion alleges that Debtors were unaware of Ford Motor Credit Company, LLC ("Ford") recording an abstract of judgment. (Dkt. No. 49, Ex. B). The balance due on the judgment was \$10,441.08. *Id.* Debtors prayed for the court to reopen the case, so they can avoid the lien.

The Court, after reviewing the motion, granted the motion, opening the case for sixty days from entry of the order. Debtor then filed a motion to avoid the Ford lien ("First Avoidance Motion"). Debtors claim that the homestead exemption is impaired by the Ford's lien, which was a judicial lien.

The Court denied the First Avoidance Motion without prejudice, stating there was insufficient evidence in support of the exemption amount and the fair market value of the property. (Dkt. No. 30). The case remained opened, so Debtors filed a second motion to avoid the lien ("Second Avoidance Motion"). (Dkt. No. 32). The Court denied the Second Avoidance Motion as well for a myriad of reasons: (1) the Debtors put the incorrect amount of their homestead exemption, including that the appraisal amount of

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, November 20, 2019

Hearing Room 303

11:00 AM

CONT... Maximino Romero Torres and Rebecca Anne Torres Chapter 7

the property is markedly less than what Debtors allege to be the fair market value; (2) Debtors did not provide the current amount of the lien; (3) Debtors did not serve Ford, etc.

Again, the Debtors filed another motion to avoid the lien ("Third Avoidance Motion") addressing the Court's reasons for denying the Second Avoidance Motion. Like the prior motions, the Court found the Third Avoidance Motion incomplete and inaccuracies abound. By order entered on October 9, 2019, the Court denied the Third Avoidance Motion without prejudice. On the same day the Court denied the Third Avoidance Motion, the case was closed because sixty days had passed.

The Debtors now filed another motion to reopen the case (the "Second Motion to Reopen").

DISCUSSION

Of note, Debtors' motion fails to reference as of the prior history of attempting to avoid the lien.

11 U.S.C §350(b):

"A case may be reopened...to administer assets, to accord relief to the Debtor, or for other cause."

In this motion, the Debtors request to reopen the case to have a lien removed by a Ford Motor Credit Company ("Ford"). (Dkt. No. 49, Pg 3).

"[B]ankruptcy courts consider several factors in determining whether to reopen a case, including, but not limited to...the length of time that the case was closed." *In re Easley-Brooks*, 487 B.R. 400, 407 (Bankr. S.D.N.Y 2013). "The mere passage of time does weigh against reopening and requires a greater showing of cause to support reopening...It is essential to the creditors as it is desirable to the bankrupt that this element of certainty be destroyed only for the most compelling cases." *In re Consol. Freight Corp.*, 554 B.R. 396, 402 (C. D. Ca. 2016).

"While the passage of time in itself does not constitute prejudice to the opposing

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party, a delay may be prejudicial when combined with other factors such as court costs and attorney's fee in state-court proceedings." *Redmond v. Fifth Third Bank*, 624 F.3d 793, 799 (7th Cir. 2010). In this situation, the Debtors did not become aware of the lien until the creditors filed an application for and renewal of Judgment in the Superior Court of California on November 9, 2018. (Dkt. No. 49, Pg 3). Ford presumably had to incur fees and costs to renew the judgment. Second, an eight-year delay is excessive, and the Debtors' repeated failures to avoid the lien when the case was previously opened weigh against allowing a subsequent reopening.

The debtors' reason—because they claim the case has not been fully administered—does not in these circumstances establish the greater showing of cause to support reopening. For these reasons, the Court is inclined to deny the motion.

TENTATIVE RULING

For the reasons stated above, including Debtors' repeated failure to avoid the lien, the prejudice to the creditor due to the passage of time, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Maximino Romero Torres

Represented By
James A Alderson

Joint Debtor(s):

Rebecca Anne Torres

Represented By
James A Alderson

Movant(s):

Maximino Romero Torres

Represented By
James A Alderson

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Rebecca Anne Torres
Represented By
James A Alderson
James A Alderson

Chapter 7

Trustee(s):

Patricia J Zimmermann (TR)

Pro Se

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6:18-19465 Joseph F. Mark

Chapter 7

#2.00 Motion Objecting To Debtor's Exemptions

EH__

Docket 62

Tentative Ruling:

11/20/19

BACKGROUND

On November 6, 2018, Joseph F. Mark ("Debtor") filed a Chapter 13 voluntary petition. Debtor converted his petition to a Chapter 7 voluntary petition on March 21, 2019. Lynda T. Bui was subsequently appointed as the Chapter 7 Trustee ("Trustee").

Debtor filed exemptions under Cal. Civ. Code §703.140. (Dkt. No.1, Schedule C). On April 23, 2019, Debtor, in the initial meeting of the creditors, testified to the Trustee, that he was married and had moved out of his martial home. He later provided his martial license. Based on Cal. Civ. Code. §703.140(a)(2), the exemptions that the debtor claimed, if he is married and filing separately, can only be utilized if both spouses signed a waiver.

The Trustee, therefore, requested a waiver signed by the Debtor and the non-filing spouse. The Debtor informed the Trustee that his spouse would not sign the waiver. While the request for a waiver was pending, Debtor filed an amended Schedule A/B and C. (Dkt. No. 44). However, Debtor still maintained the exemptions provided by §703.140(b)(1) et seq.

The Trustee request that the Debtor amend his Schedule C to use exemptions under Cal. Civ. Code §704.100, non-bankruptcy state exemption, and turnover his 2018 tax refunds. This motion was filed on October 30, 2019, and the continued meeting of the creditors is set for November 4, 2019.

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CONT... Joseph F. Mark

Chapter 7

DISCUSSION

Cal. Civ. Code §703.140(a) provides that debtor must use the California exemptions pursuant to Cal. Civ. Code §704.010 et seq., unless Debtor obtains a waiver from his non-filing spouse. Not having done so, and having only claimed federal exemptions under Cal. Civ. Code §703.140(b)(1) et seq., the objection is sustained.

Having sustain Trustee's objection to Debtor's claimed exemption in the 2018 Tax refunds, the request for turnover of those tax refunds is granted.

TENTATIVE RULING

For the reasons stated above, the Court is inclined to SUSTAIN the objection to the claimed exemptions and TURNOVER 2018 Federal and State tax returns.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Joseph F. Mark

Represented By
Keith Q Nguyen

Trustee(s):

Lynda T. Bui (TR)

Pro Se

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6:19-10124 Bobbi Harris

Chapter 7

#3.00 Trustee's Final Report and Applications for Compensation

EH ____

Docket 25

Tentative Ruling:

TENTATIVE RULING

11/20/2019

Opposition: None

Service: Proper

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$300.50

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Bobbi Harris

Represented By
M. Wayne Tucker

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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6:19-19345 Michael Christopher Oropallo and Lauren Elaine Oropallo Chapter 13

#3.10 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 2015 Ford Explorer

MOVANT: MICHAEL AND LAUREN OROPALLO

From: 11/19/19

EH__

Docket 13

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: None

Debtor had a bankruptcy case dismissed in the previous calendar year after failing to perform the terms of a plan confirmed by the Court. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(C)(i)(II)(cc), the instant bankruptcy case is presumed to have been filed in bad faith. Pursuant to 11 U.S.C. § 362(c)(3)(C), the Court requires "clear and convincing" evidence to rebut the presumption of bad faith. Here, Debtor has not provided clear evidence regarding a change in circumstance, only asserting that their income and expenses have "stabilized." More importantly, the secured creditor was not served pursuant to FED. R. BANKR. P. Rule 7004(h) as required by the Court's procedures for hearings on motions to continue the automatic stay. For all these reasons, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michael Christopher Oropallo

Represented By
Rabin J Pournazarian

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CONT... Michael Christopher Oropallo and Lauren Elaine Oropallo

Chapter 13

Joint Debtor(s):

Lauren Elaine Oropallo

Represented By
Rabin J Pournazarian

Movant(s):

Michael Christopher Oropallo

Represented By
Rabin J Pournazarian

Lauren Elaine Oropallo

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:14-01248 Revere Financial Corporation, a California corpora v. Roger, MD

#4.00 CONT Status Conference RE: Amended Complaint (First) by Revere Financial Corporation and Jerry Wang, as State-Court Appointed Receiver by Franklin R Fraley Jr on behalf of Revere Financial Corporation, a California corporation against Revere Financial Corporation, a California corporation. (Attachments: # 1 Exhibit 1-8)

From: 4/25/18, 6/13/18, 8/22/18, 10/31/18, 7/31/19, 9/11/19

EH__

Docket 82

*** VACATED *** REASON: CONTINUED TO 1/29/20 AT 2:00 P.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Douglas J Roger MD

Represented By
Summer M Shaw
Thomas J Eastmond
Marc C Forsythe

Plaintiff(s):

Revere Financial Corporation, a

Represented By
Franklin R Fraley Jr

Jerry Wang

Represented By
Franklin R Fraley Jr
Anthony J Napolitano

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CONT... Douglas Jay Roger

Chapter 7

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

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6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Adv#: 6:15-01303 Cisneros v. AMERICAN EXPRESS

#5.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01303. Complaint by A. Cisneros against AMERICAN EXPRESS. (Charge To Estate \$350). For Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))

From: 12/30/15, 1/13/16, 3/23/16, 5/25/16, 6/29/16, 8/31/16, 11/2/16, 2/1/17, 5/3/17, 9/13/17, 12/13/17, 2/14/18, 5/16/18, 6/11/18, 8/22/18, 11/28/18, 2/27/19, 5/29/19, 8/28/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/29/2020 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

AMERICAN EXPRESS

Represented By
Robert S Lampl
Chad V Haes

Plaintiff(s):

A. Cisneros

Represented By
D Edward Hays

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**CONT... Douglas J Roger, MD, Inc., A Professional Corporat
Chad V Haes**

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

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6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat Chapter 7
Adv#: 6:15-01307 Revere Financial Corporation v. OIC MEDICAL CORPORATION, a

#6.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01307. Complaint by A. Cisneros against OIC MEDICAL CORPORATION, a California corporation, LIBERTY ORTHOPEDIC CORPORATION, a California corporation, UNIVERSAL ORTHOPAEDIC GROUP, a California corporation. (Charge To Estate \$350). for Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))

From: 12/30/15, 2/24/16, 4/13/16, 6/22/16, 8/24/16, 11/2/16, 2/1/17, 3/8/17, 7/12/17, 9/13/17, 11/15/17, 2/14/18, 5/16/18, 7/25/18, 8/22/18, 10/31/18, 11/14/18, 12/12/18, 12/19/18, 3/27/19, 6/12/19, 7/31/19, Advanced 3/4/20

EH__

Docket 1

*** VACATED *** REASON: CONTINUED TO 1/29/20 AT 2:00 P.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

OIC MEDICAL CORPORATION, a

Represented By
Misty A Perry Isaacson

LIBERTY ORTHOPEDIC

Represented By
Misty Perry Isaacson
Misty A Perry Isaacson

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UNIVERSAL ORTHOPAEDIC

Represented By

Misty Perry Isaacson

Misty A Perry Isaacson

Plaintiff(s):

Revere Financial Corporation

Represented By

Franklin R Fraley Jr

Trustee(s):

Arturo Cisneros (TR)

Represented By

Chad V Haes

D Edward Hays

Franklin R Fraley Jr

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6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat
Adv#: 6:15-01308 Cisneros v. BWI CONSULTING, LLC et al

Chapter 7

#7.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01308. Complaint by A. Cisneros against BWI CONSULTING, LLC, Black and White, Inc., BLACK AND WHITE BILLING COMPANY, BLACK AND WHITE INK, MEHRAN DEVELOPMENT CORPORATION. (Charge To Estate \$350). for Avoidance, Recovery, and Preservation of Preferential and Fraudulent Transfers (with Adversary Proceeding Cover Sheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other))

From: 1/13/16, 3/23/16, 5/25/16, 7/27/16, 8/31/16, 11/2/16, 2/1/17, 5/3/17, 9/13/17, 12/13/17, 2/14/18, 5/16/18, 6/11/18, 8/22/18, 11/28/18, 2/27/19, 5/29/19, 8/28/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/29/20 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

Defendant(s):

BWI CONSULTING, LLC	Pro Se
Black and White, Inc.	Pro Se
BLACK AND WHITE BILLING	Pro Se
BLACK AND WHITE INK	Pro Se
MEHRAN DEVELOPMENT	Pro Se

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Plaintiff(s):

A. Cisneros

Represented By
D Edward Hays
Chad V Haes

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

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6:16-15813 John E. Tackett

Chapter 7

Adv#: 6:18-01138 Speier v. Conestoga Settlement Services, LLC et al

#8.00 Motion for Default Judgment Under LBR 7055-1, Memorandum of Points and Authorities in Support of Motion for Entry of Default Judgment Against **Defendant Jeff Converse**

Also #9

EH__

Docket 76

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John E. Tackett

Represented By
Stefan R Pancer

Defendant(s):

Conestoga Settlement Services, LLC

Represented By
Charles Miller

Conestoga International Holdings,

Represented By
Charles Miller

Conestoga Trust

Represented By
Charles Miller

Provident Trust Group, LLC

Represented By
Marshall J Hogan

De Leon & Washburh, P.C.

Represented By
Jasmin Yang
David D Samani

Thomas Washburn

Represented By

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	Jasmin Yang David D Samani
Hector De Leon	Represented By Jasmin Yang David D Samani
Jeff Converse	Pro Se
Michael Woods	Pro Se
Michael McDermott	Pro Se

Joint Debtor(s):

Ellen O. Tackett	Represented By Stefan R Pancer
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Movant(s):

Steven M Speier (TR)	Represented By Thomas J Eastmond
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Plaintiff(s):

Steven M Speier	Represented By Thomas J Eastmond Robert P Goe
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Trustee(s):

Steven M Speier (TR)	Represented By Robert P Goe Thomas J Eastmond
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6:16-15813 John E. Tackett

Chapter 7

Adv#: 6:18-01138 Speier v. Conestoga Settlement Services, LLC et al

#9.00 Motion for Default Judgment Under LBR 7055-1, Memorandum of Points and Authorities in Support of Motion for Entry of Default Judgment Against **Defendant Michael Woods**

Also #8

EH__

Docket 77

Tentative Ruling:

11/20/19

BACKGROUND

On June 29, 2016, John E. Tackett and Ellen O. Tackett (collectively "Debtors") filed a Chapter 7 voluntary petition. As part of their petition, Debtors were appointed Steven M. Speier, their ("Trustee"). The Trustee filed an adversary proceeding against Conestoga Settlement Services, LLC, a Delaware Corporation, et al (collectively "Defendants"), including Michael Woods ("Woods") and Jeff Converse ("Converse"), roughly two years later, June 20, 2018.

Debtors' claim against Defendants arose from an allegedly unsuited investment. In 2012, Ellen O. Tackett ("Mrs. Tackett") inherited an interest in property located at 716 Bayonne Street, El Segundo, California (the "Property"), along with her sibling, Evelyn. Evelyn paid Mrs. Tackett, through a loan, \$300,000 for her interest. \$50,000 of the payment went to Debtors' debts, home repairs, and other miscellaneous expenses, leaving \$250,000.

In April 2012, Debtors meet Converse in Las Vegas at a weekend-long Amway convention. Debtors were acquainted with Converse from prior Amway related interactions. A conversation developed amongst the parties. Converse brought-up an opportunity to invest in life settlements with John Tackett ("Mr. Tackett"). Converse and

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CONT...

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Mr. Tackett agreed to continue the conversation at a later date.

Later in the month, Converse met Debtors at a Panera Bread in Riverside, California. During the meeting, Converse stated he was a selling agent for Conestoga Settlement Services, LLC, ("Conestoga") and discussed Conestoga's life settlement investment opportunities:

"[I]n a life settlement contract, the beneficiary under a life insurance policy sells his or her interest to a third party, who in turns becomes the beneficiary who will receive the insurance benefit when the insured dies. The purchaser effectively wagers that the insured will die soon enough that the total of the cash paid to acquire the policy, plus the premiums that must be paid to keep the policy in force, will be less than the ultimate death benefit, yielding a positive return."
(Ellen O. Tackett Decl., ¶6; John E. Tackett Decl., ¶4.)

Converse stated several Amway Diamonds—Amway distributors who had achieved a certain level of success—were making life settlement investments. Converse then mentioned Woods, an Amway Diamond who resided in Texas, with whom Debtors were familiar with, was involved with Conestoga. Converse did qualify this investment opportunity by stating that it may not be suitable for Debtors and he would have to talk to his supervisors about their participation.

After two to five days later, Converse called the Debtors and informed them that they were qualified and approved by his "supervisors." Another meeting took place in late April or early May. At this meeting, Converse stated that his "supervisors" would prefer that Debtors invest \$250,000 that Mrs. Tackett's received for her interest in the inherited Property. Debtors did not state how Converse was aware of such funds being available to them.

A third meeting was arranged. At this meeting, Debtors had questions about information presented to them in the prior meeting. Converse explained that the investment would be for the purchase of a percentage of each policy, and a portion of the fund would be held in a reserve account in case the insured outlived his or her life expectancy dates.

Converse stated that there was approximately five years of premium monies that would be held in an escrow amount on each policy. After the insured passed away, Converse told Debtors the money in the escrow account

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would be returned to them or reinvested into other policies.

Another meeting was arranged for Debtors to sign the contract ("Life Settlement Agreement") and purchase interest in the life policies. When Converse arrived, he told the Debtors that he was rushing because he had booked another meeting too close in time with that of Debtors. Without thoroughly reviewing the Life Settlement Agreement, Debtors signed parts of the contract that were tagged in advance by Converse or another party and deposited \$30,000 to Converse.

The contract indicated that Debtors became fractional owners of eight policies with premium ranging from 75 to 85.5 months. Since Converse stated that life expectancies for the insured were less than 55 months, Debtors were at ease with this margin. A fifth meeting took place where Debtors deposited \$220,000 with Converse.

In 2013, Mr. Tackett, employed as a probation officer, was injured in a ground defense training class. The injury, unfortunately serious, drastically reduced his ability to work. Mrs. Tackett, the sole caretaker of Mr. Tackett, was unable to substitute Mr. Tackett's income. This led to Debtors filing for bankruptcy.

On January 16, 2017, Conestoga sent Debtors a notice, informing them that money in the reserve account had been depleted. Pursuant to the Life Settlement Agreement, for Debtors to maintain their interest in their life policies, they would have to contribute their pro-rate share of the premiums due. On February 13, 2017, Trustee's counsel, being aware of this notice, notified Conestoga, through a letter, of the automatic stay and the consequences of violating it.

On February 20, 2017, Conestoga's counsel communicated he had received the notice and proposed to buy Debtors' interest. Unfortunately, the parties were unable to negotiate a settlement.

Since the initial notice given to Debtors about the premium call, eight of the nine policies, the insured had outlived his or her life expectancy. However, Debtors believe that the premium calls were premature. After reviewing the Life Settlement Agreement, Debtors, because Woods name appeared at the top of the coverage page under "Independent Contractor," believe Woods is the supervisor Converse alluded to. Trustee now files a motion asking for the court to grant a default judgment against Woods.

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PROCEDURAL HISTORY

Trustee filed an adversary proceeding against Defendants on June 20, 2018, which was timely served. Defendants had until July 20, 2018 to file and serve a written response to the Trustee's complaint. Defendants filed a response, asking for the court to dismiss the case, on July 30, 2019.

Trustee then filed a request for the clerk to enter a default judgment due to the untimely response of the Defendants. The clerk obliged, entering a default judgment against Defendants on August 8, 2018. Conestoga Settlement Services, LLC; Conestoga International, LLC; and Conestoga Trust (collectively, "Conestoga Entities") disputed that the service was proper. On September 7, 2018, Trustee and Conestoga Entities agreed that the Trustee would set aside the default judgment if they accept service as proper. The stipulation agreement was granted, and Conestoga Entities had until September 28, 2018 to file their response.

Conestoga Entities filed an answer to the complaint on October 1, 2018 and asked for extending time to respond to the complaint. The motion was granted on October 12, 2018. Conestoga Entities did not file another answer. Roughly a year later, Trustee filed this motion, requesting a default judgment against Woods.

DISCUSSION

A. Entry of Default

FED. R. CIV. P. Rule 55 states that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed. R. Civ. P. 55(a). Local Rule 7055-1 provides further requirements relating to a motion for entry of default judgment, and those requirements have been substantially satisfied here.

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B. Motion for Default Judgment

I. Proper Service of Summons and Complaint

FED. R. BANKR. P. Rule 7004(b)(1) states, in part:

[S]ervice may be made within the United States by first class mail postage prepaid as follows..

- (1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint to the individual's dwelling house or usual place of abode or to the place where the individual regularly conducts a business or profession.

Here, it appears that the motion for default judgment has been properly served.

II. Complaint as True

Upon default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true. *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987); *see also Almog v. Golden Summit Investors Group, Ltd.*, 2012 WL 12867972 at *4 (C.D. Cal. 2012) (stating that when reviewing a motion for default judgment, the Court must accept the well-pleaded allegations of the complaint relating to liability as true.).

C. Jurisdiction

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I. Subject Matter Jurisdiction

This Court has subject matter jurisdiction pursuant to U.S.C §157(b)(1)—Bankruptcy Judges may hear and determine all cases under title 11 and all core proceedings arising under title 11—and 28 U.S.C. §1334. Trustee has asserted a claim arising under title 11, a Chapter 7 voluntary petition, and the matter concerns the administration of an estate. U.S.C §157(b)(2)(A).

II. Venue

Venue is proper pursuant to 28 U.S.C. §1409(a):

"Except as otherwise provided in subsections (b) and (d), a proceeding arising under title 11 or arising in or related to a case under title 11 may be commenced in the district court in which such case is pending."

Debtors' lead bankruptcy case (16-15813) is currently pending in this Court.

III. Personal Jurisdiction

Personal Jurisdiction of an out-of-state defendant is appropriate if the relevant state's long arm-statue permits the assertion of jurisdiction without violating federal due process. *Schwarzenegger v. Fred Martin Motor Co.* 374, F.3d 797, 800 (9th Cir. 2004). Due process requires that non-residents have certain "minimum contacts" with the forum state. *Int'l Shoe Co. v. Washington*, 326. U.S. 310, 316 (1945).

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Chapter 7

In California the Ninth Circuit has articulated a three-prong test:

- (1) the non-resident defendant must purposefully direct his activities or consummate some transaction in the forum or resident thereof, or perform some act by which it purposeful avails itself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of forum's laws;
- (2) the claim must be one which arises out of or relates to the defendant's forum-related activities; and
- (3) the exercise of jurisdiction must comport with the fair play and substantial justice. *Lake v. Lake*, 817 F.2d 1416, 1421 (9th Cir. 1987).

a. Purposeful Direction

To determine if the first prong is satisfied, because the Trustee alleges fraud, a purposeful direction analysis must be used. *Schwarzenegger*, 374 F.3d at 802 (stating that purposeful direction analysis is used in tort-related claims). A three part-test is utilized in the purposeful analysis—the Calder-effects test. *Calder v. Jones*, 465 U.S. 783 (1984). Under this test, the defendant allegedly must have (1) committed an intentional act, (2) expressly aimed at the forum state, and (3) causing harm that the defendant know is likely to be suffered in the forum state. *Id.*

Accepting all the allegations as true in the Trustee complaint, the Court finds that Woods, involved with Conestoga in some manner, with Converse, defrauded Californians into purchasing investments unsuitable for them.

b. Forum Related Activities

The second prong requires that the Trustee's claim shows that Debtors

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would not have been injured "but for" the defendant's forum-related conduct. *Myers v. Bennet Law Offices*, 238 F.3d 1068, 1075 (9th Cir. 2001). Trustee claims that Debtors would not have suffered injury but for Converse's conduct, who is believed to be an agent of Woods.

c. Reasonableness

The third prong requires that the court consider seven factors:

- (1) The extent of defendant's purposeful interjection;
- (2) the burden on defendant in defending in the forum;
- (3) the extent of conflict with the sovereignty of defendant's state;
- (4) the forum state's interest in adjudicating the suit;
- (5) the most efficient judicial resolution of the controversy;
- (6) the importance of the forum to the plaintiff's interest in convenient and effective relief; and
- (7) the existence of an alternative forum. *Core-Vent Corp. v. Nobel Indust. AB*, 11 F.3d 1482, 1487 (9th Cir. 1993).

In engaging in this analysis, no one factor is dispositive. *Id.* at 1488. With respect to the first factor, Trustee has shown that Woods had intentional and continuous contact with California. Woods was listed as an "Independent Contractor" on the Life Settlement Agreement's coverage page. (John E. Tackett Decl. ¶15). Woods was associated with Conestoga, which was selling securities in the State of California.

As to the second factor, there is nothing in the record or that the Court can see that indicating that it would be inconvenient for Woods to litigate this lawsuit in California.

Looking at the third factor, Trustee claims arise under federal law and California Law. Thus, there is no potential conflict with another state's law or

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regulation. Thus, this weighs in favor of the Trustee.

Trustee is headquartered in California, and Debtors are residence of California. Californian courts, including this Court, have a strong interest in protecting California citizens and domestic businesses from the wrongful acts of a non-resident defendant.

As to the fifth factor, most of the evidence and witnesses are based in Riverside, California. Converse met with Debtors multiple times at a Panera Bread in Riverside, where the contract was signed.

Turning to the sixth factor, while it may not be as convenient for the Trustee to litigate this matter outside of California, there is nothing in the record suggesting that convenient and effective relief is unavailable in a different forum. Thus, this factor is neutral.

Evaluating the seventh factor, the Court finds that this factor is neutral for the same reasons stated above. Thus, taking all the foregoing factors into consideration, the Court finds that personal jurisdiction over Woods in this action is appropriate.

D. Analysis of Judgment by Default

To obtain a default judgment, a two-step process is required: "(1) entry of party's default (normally by the clerk), and (2) entry of a default judgment[, which can be given by the Clerk if the sum is certain or by the Court in all other cases]". *In re McGee*, 359 B.R. 765 (B.A.P. 9th Cir. 2006). The Trustee has admitted that the sum in this claim is certain, so such an entry of default by the Clerk could be appropriate. However, this motion has provided additional support for the calculation of damages.

The complaint includes fraud, negligent misrepresentation, violation of securities qualification requirements, and misrepresentation in the sale of securities. The Trustee asks to be awarded interest and punitive damages as well as the full invested amount, \$250,000. Before the Court can address the Trustee claims, it must determine if the pleadings support a finding of a principal-agent relationship between Woods and Converse since all the claims against Woods are based on the allegation that Converse is the agent of Woods

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I. Agent

A principal-agent relationship can be created by one of two ways:

- (1) actual authority—"an agent acts with actual authority when, at the time of taking action that has legal consequences for the principal, the agent reasonable believes, in accordance with the principal's manifestations to the agent, that the principal wishes the agent so to act—or
- (2) apparent authority—"the power held by an agent...to affect a principal's legal relationship with third parties when a third party reasonably believes the actor has authority to act on behalf and that belief is traceable to the principal's manifestation. Restatement (Third) of Agency §§ 2.01 and 2.03.

Because there is no declaration provided by Converse, the pleading does not provide support for actual authority. Nor does the complaint allege sufficient facts to establish an agency relationship.

However, there may be evidence of apparent authority. "Apparent authority 'must be established by proof of something said or done by the principal on which [a third part] reasonably relied'; it 'cannot be established merely by showing that [the purported agent] claimed authority or purported to exercise it.'" *Pascal v. Agentra, LLC*, 2019 U.S. Dist. Lexis 179359, *10 (Cal. Dist. Ct. App. 2019) (quoting *Nat'l Labor Relations Bd. v. Dist. Counsel of Iron Works*, 124 F.3d 1094, 1099 (9th Cir. 1997)).

Examples of an establishment of apparent authority would be the "principal's direct statement to the third party, directions to the agent to tell something to the third person, or the granting of permission to the agent to perform acts and conduct negotiations under circumstances which create in him a reputation of authority in the area which the agent acts and negotiates." *Id.* No evidence of this kind was presented in the pleading. Thus, the Trustee does not plead sufficient facts to support an apparent authority that Woods is vicariously liable for the acts purportedly perpetrated by Converse.

Furthermore, evidence of ratification is also not present in the pleading. Ratification is "the affirmance of a prior act done by another, whereby the act is given effect as if done by an agent acting with actual authority." *Kristensen v. Credit Payment Serv.*, 879 F.3d 1010, 1014 (9th Cir. 2018). A principal can be found liable when he or

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she ratifies an originally unauthorized tort. *Id.*

However, here the Debtors' declaration simply reflects that Woods' name appears on the cover page of the Life Settlement Agreement under "Independent Contractor Name." Nothing in the claim establishes such proof of a principal-agent relationship nor ratification of the agents authorized conduct.

TENTATIVE RULING

Thus, the Court is inclined to DENY the motion for default judgment.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

John E. Tackett

Represented By
Stefan R Pancer

Defendant(s):

Conestoga Settlement Services, LLC

Represented By
Charles Miller

Conestoga International Holdings,

Represented By
Charles Miller

Conestoga Trust

Represented By
Charles Miller

Provident Trust Group, LLC

Represented By
Marshall J Hogan

De Leon & Washburh, P.C.

Represented By
Jasmin Yang
David D Samani

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Thomas Washburn

Represented By
Jasmin Yang
David D Samani

Hector De Leon

Represented By
Jasmin Yang
David D Samani

Jeff Converse

Pro Se

Michael Woods

Pro Se

Michael McDermott

Pro Se

Joint Debtor(s):

Ellen O. Tackett

Represented By
Stefan R Pancer

Movant(s):

Steven M Speier

Represented By
Thomas J Eastmond
Robert P Goe

Plaintiff(s):

Steven M Speier

Represented By
Thomas J Eastmond
Robert P Goe

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

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6:17-20092 Mark Bastorous

Chapter 7

Adv#: 6:18-01174 Pringle Ch 7 Trustee v. Shenouda et al

#10.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01174. Complaint by John P Pringle Ch 7 Trustee against Violete Shenouda, Anwar Wagdy. (Charge To Estate - \$350.00). Complaint: (1) To Avoid and Recover Fraudulent Transfers Pursuant to 11 U.S.C. Sections 548(a)(1)(A) and 550; (2) To Avoid and Recover Fraudulent Transfers Pursuant to 11 U.S.C. Sections 548(a)(1)(B) and 550; (3) To Avoid Transfer Pursuant to 11 U.S.C. Section 544(a)(3); (4) To Preserve Transfers Pursuant to 11 U.S.C. Section 551; (5) For Declaratory Relief; (6) For Imposition of Resulting Trust; (7) For Imposition of Constructive Trust; and (8) For Attorneys' Fees and Costs Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(72 (Injunctive relief - other)),(91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Goodrich, David)

From: 10/31/18, 2/27/19, 6/12/19, 9/18/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

Defendant(s):

Violete Shenouda

Represented By
John J Lewis

Anwar Wagdy

Represented By
John J Lewis

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CONT... Mark Bastorous

Chapter 7

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Plaintiff(s):

John P Pringle Ch 7 Trustee

Represented By
David M Goodrich
Reem J Bello

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

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6:18-10939 Vance Zachary Johnson

Chapter 7

Adv#: 6:18-01106 Bankers Healthcare Group, LLC v. Johnson

#11.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01106. Complaint by Bankers Healthcare Group, LLC against Vance Zachary Johnson. 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))

From: 7/10/18, 2/20/19, 4/24/19, 7/3/19, 7/17/19, 8/21/19

EH ____

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/29/20 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vance Zachary Johnson

Represented By
Robert P Goe

Defendant(s):

Vance Zachary Johnson

Represented By
Robert P Goe
Stephen Reider

Plaintiff(s):

Bankers Healthcare Group, LLC

Represented By
Todd L Turoci

Trustee(s):

Todd A. Frealy (TR)

Represented By
Monica Y Kim

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6:19-13174 Daniel Benjamin Verwers

Chapter 7

Adv#: 6:19-01107 Blumhardt v. Verwers

#12.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01107. Complaint by Daniel John Blumhardt against Daniel Benjamin Verwers. false pretenses, false representation, actual fraud)) (Sarmiento, Louis)

From: 9/18/19

EH__

Docket 1

***** VACATED *** REASON: ADVERSARY DISMISSED 9/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Benjamin Verwers

Represented By
Todd L Turoci

Defendant(s):

Daniel Benjamin Verwers

Represented By
Todd L Turoci

Plaintiff(s):

Daniel John Blumhardt

Represented By
Louis J Sarmiento
Denis S Kenny

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:19-16505 Jesse Joseph Shelby

Chapter 7

Adv#: 6:19-01126 Shelby v. SOFI LENDING CORP.

#13.00 Status Conference RE: [1] Adversary case 6:19-ap-01126. Complaint by Jesse Joseph Shelby against SOFI LENDING CORP.. (Charge To Estate - \$350.00). Nature of Suit: (63 (Dischargeability - 523(a)(8), student loan)) (Kingston, Christine)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesse Joseph Shelby

Represented By
Steven A Alpert

Defendant(s):

SOFI LENDING CORP.

Pro Se

Joint Debtor(s):

Tina Marie Shelby

Represented By
Steven A Alpert

Plaintiff(s):

Jesse Joseph Shelby

Represented By
Christine A Kingston

Trustee(s):

Steven M Speier (TR)

Pro Se

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11:00 AM

6:17-14075 Stephanie Lobato

Chapter 13

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

EH__

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie Lobato

Represented By
William Radcliffe

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:17-17578 Kendra Susan Lewkow

Chapter 13

#2.00 Order To Show Cause re Debtor's certification of compliance under 11 U.S.C. Section 1328(a) and Notice of application for entry of discharge

EH__

Docket 46

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kendra Susan Lewkow

Represented By
Morton J Grabel

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:18-20737 Alfredo N Adriano

Chapter 13

#3.00 CONT Order to show cause why Alon Darvish should not be sanctioned

CASE DISMISSED 3/14/19

From: 8/22/19, 9/19/19

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alfredo N Adriano

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-16658 Stephanie McCravey Cooper

Chapter 13

#4.00 CONT Confirmation of Chapter 13 Plan

From: 10/31/19, 11/7/19

EH __

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie McCravey Cooper

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-16941 Latacia D Sanders

Chapter 13

#5.00 CONT Confirmation of Chapter 13 Plan

From: 10/31/19

EH __

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Latacia D Sanders

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-17454 Andrea A Duncan

Chapter 13

#6.00 Confirmation of Chapter 13 Plan

EH __

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrea A Duncan

Represented By
Marc A Goldbach

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-17456 Michael Tyrone Lee and Marilyn Pearl Lee

Chapter 13

#7.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/13/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Tyrone Lee Pro Se

Joint Debtor(s):

Marilyn Pearl Lee Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

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6:19-17484 Jorel Esteban Zambrano and Sandy Rose Zambrano

Chapter 13

#8.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorel Esteban Zambrano

Represented By
Carey C Pickford

Joint Debtor(s):

Sandy Rose Zambrano

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-17489 David Aaron Graves and Kendra Clairice Graves

Chapter 13

#9.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Aaron Graves

Represented By
Carey C Pickford

Joint Debtor(s):

Kendra Clairice Graves

Represented By
Carey C Pickford

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-17503 Robbie L Marshall

Chapter 13

#10.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/16/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robbie L Marshall

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-17527 Michael Lewis Jackson and Samantha Kim Jackson

Chapter 13

#11.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Lewis Jackson

Represented By
Anthony B Vigil

Joint Debtor(s):

Samantha Kim Jackson

Represented By
Anthony B Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-17528 Kevin Lee Gibbons

Chapter 13

#12.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kevin Lee Gibbons

Represented By
Anthony B Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-17554 Doralene C Weitz

Chapter 13

#13.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Doralene C Weitz

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-17558 Jose Luis Rodriguez

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/24/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Luis Rodriguez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-17563 Felix R. Ortiz Jr.

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Felix R. Ortiz Jr.

Represented By
William E Windham

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-17651 Stephanie Brown

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/17/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie Brown

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
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6:19-17711 Deborah Sue Burton

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 9/17/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Deborah Sue Burton

Represented By
Shawn Anthony Doan

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-17725 Michelle R. Rayner

Chapter 13

#18.00 Motion for Order Determining Value of Collateral

Also #19

EH__

Docket 20

Tentative Ruling:

11/21/19

BACKGROUND

On August 30, 2019, Michelle Rayner ("Debtor") filed a Chapter 13 voluntary petition. Among the assets of the estate is a couch (the "Property"). Pursuant to Schedule D, Genesis Credit ("Creditor") holds a security interest in the Property..

On July 19, 2019, Debtor filed a motion to value the Property. Debtor asserts that the Property should be valued at \$540.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

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CONT... Michelle R. Rayner

Chapter 13

Presently, the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a Splitwise report identifying value of the Property. The Splitwise report states the following: "This number is not based on market prices, but on depreciation, which we believe is a better basis for fairness. This number is NOT a professional estimate, and is intended primarily for roommates buying and selling shared furniture." Pursuant to the caselaw cited above, the Court requires evidence of the Property's retail value, and adequate evidence to justify any deviations therefrom. The Splitwise report, by its own description, does not meet that standard.

Tentative Ruling:

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

CONT... Michelle R. Rayner

Chapter 13

Debtor(s):

Michelle R. Rayner

Represented By
Terrence Fantauzzi

Movant(s):

Michelle R. Rayner

Represented By
Terrence Fantauzzi
Terrence Fantauzzi
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-17725 Michelle R. Rayner

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

Also #18

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle R. Rayner

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-17775 Floretta Love

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Floretta Love

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-17785 Harinder Heera

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Harinder Heera

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-17805 Charles R. Thierry

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles R. Thierry

Represented By
Gregory Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-17818 Martha Calleros

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 11/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martha Calleros

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-17838 Albert E. Abdou

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Albert E. Abdou

Represented By
Keith Q Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-17843 Zakiyyah Johnson-Salaam

Chapter 7

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 10

***** VACATED *** REASON: CASE DISMISSED 10/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zakiyyah Johnson-Salaam

Pro Se

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-17846 Christopher Lee Sumners

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Lee Sumners

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-17860 Gary L Brown and Charline R Brown

Chapter 7

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE CONVERTED TO CH 7 ON 9/20/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gary L Brown

Represented By
Jenny L Doling

Joint Debtor(s):

Charline R Brown

Represented By
Jenny L Doling

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-17957 Maria Luisa Barrera and Armando Ibarra Barrera, Sr.

Chapter 13

#28.00 Notice of Motion and Motion For Order Compelling Attorney to File Disclosure Of Compensation Pursuant To 11 U.S.C. 329 and Federal Rule of Bankruptcy Procedure 2016

EH __

Docket 16

Tentative Ruling:

11/21/19

BACKGROUND

On September 10, 2019, Maria & Armando Barrera ("Debtors") filed a Chapter 13 voluntary petition. On September 30, 2019, Debtors' case was dismissed for failure to file case commencement documents.

On October 11, 2019, UST filed a motion for an order compelling attorney to file disclosure of compensation pursuant to 11 U.S.C. § 329. On October 14, 2019, Debtor's attorney, Nathan Fransen ("Counsel"), filed the disclosure of compensation. Counsel also filed a declaration in response to UST's motion, stating that the failure to file the disclosure of compensation was an oversight.

DISCUSSION

11 U.S.C. § 329(a) states:

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Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

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Hearing Room 303

11:00 AM

CONT... Maria Luisa Barrera and Armando Ibarra Barrera, Sr.

Chapter 13

Any attorney representing a debtor in a case under this title, or in connection with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of or in connection with the case by such attorney, and the source of such compensation.

FED. R. BANKR. P. Rule 2016(b) provides further details regarding the requirements imposed by § 329.

Here, Counsel has filed the required disclosure of compensation. The Court will retain jurisdiction over any matter relating to § 329 to allow UST to review the filed disclosure of compensation.

TENTATIVE RULING

The Court is inclined to DENY the motion as MOOT and retain jurisdiction over any matter related to § 329.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Maria Luisa Barrera

Represented By
Nathan Fransen

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

CONT... Maria Luisa Barrera and Armando Ibarra Barrera, Sr.

Chapter 13

Joint Debtor(s):

Armando Ibarra Barrera Sr.

Represented By
Nathan Fransen

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-18089 Edwin Leonel Barco and Juana De Jesus Marin

Chapter 13

#29.00 Motion to Avoid Junior Lien with HSBC Bank USA, National Association

EH ____

Docket 16

Tentative Ruling:

11/21/19

Service: Proper
Opposition: None

Notice appearing proper, no opposition having been filed, and Movant having established that the amount owing on the first deed of trust exceeds the fair market value of the subject property, the Court is inclined to GRANT the motion, AVOIDING the junior lien of HSBC Bank, USA, National Association as Trustee, upon receipt of a Chapter 13 discharge.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Edwin Leonel Barco

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Juana De Jesus Marin

Represented By
Jaime A Cuevas Jr.

Movant(s):

Edwin Leonel Barco

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

CONT... Edwin Leonel Barco and Juana De Jesus Marin

Chapter 13

Jaime A Cuevas Jr.

Juana De Jesus Marin

Represented By

Jaime A Cuevas Jr.

Jaime A Cuevas Jr.

Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

6:19-18241 Rhonda Kline

Chapter 13

#30.00 Notice of Motion and Motion For Order Compelling Attorney to File Disclosure Of Compensation Pursuant To 11 U.S.C. 329 and Federal Rule of Bankruptcy Procedure 2016

EH ____

Docket 15

Tentative Ruling:

11/21/19

BACKGROUND

On September 19, 2019, Rhonda Kline ("Debtor") filed a Chapter 13 voluntary petition. On September 25, 2019, the case was dismissed for failure to file the initial case commencement documents.

On October 11, 2019, UST filed a motion for an order compelling attorney to file disclosure of compensation pursuant to 11 U.S.C. § 329.

DISCUSSION

11 U.S.C. § 329(a) states:

Any attorney representing a debtor in a case under this title, or in connection

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, November 21, 2019

Hearing Room 303

11:00 AM

CONT...

Rhonda Kline

Chapter 13

with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of or in connection with the case by such attorney, and the source of such compensation.

FED. R. BANKR. P. Rule 2016(b) provides further details regarding the requirements imposed by § 329. Here, Debtor's counsel has failed to file the required disclosure of compensation. The Court has authority to enter an order directing the disclosure of such compensation, and will direct Debtor's counsel to file the required disclosure. *See, e.g., In re Shuma*, 124 B.R. 668, 677 (Bankr. W.D. Pa. 1991).

TENTATIVE RULING

The Court is inclined to GRANT the motion, ordering Debtor's counsel, Bruce Boice, to file the required statement of attorney compensation. Pending UST's review of the disclosure of compensation, the Court will retain jurisdiction over matters related to 11 U.S.C. § 329.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Rhonda Kline

Represented By
Bruce A Boice

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:00 AM

CONT... Rhonda Kline

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:14-24888 Jesus Padilla Simental

Chapter 13

#31.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 100

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus Padilla Simental

Represented By
Bryn C Deb

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:15-14835 Bennea Cynthia Travis

Chapter 13

#32.00 CONT Trustee's Motion to Dismiss Case

From: 10/31/19

EH__

Docket 106

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bennea Cynthia Travis

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:15-15314 Franklin Merl Thomas King

Chapter 13

#33.00 Trustee's Motion to Dismiss Case re Tax Returns/Refunds

EH__

Docket 73

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Franklin Merl Thomas King

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:15-19432 Kirk Eugene Frantz and Mary Elizabeth Frantz

Chapter 13

#34.00 Trustee's Motion to Dismiss Case

EH__

Docket 187

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Eugene Frantz

Represented By
Jenny L Doling

Joint Debtor(s):

Mary Elizabeth Frantz

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:16-16622 Xavier Roque Gutierrez and Sara Nicole Moran-Gutierrez

Chapter 13

#35.00 Trustee's Motion to Dismiss Case

EH__

Docket 119

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/20/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Xavier Roque Gutierrez

Represented By
Paul Y Lee

Joint Debtor(s):

Sara Nicole Moran-Gutierrez

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:16-17765 Mary Jones

Chapter 13

#36.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mary Jones

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:16-19890 Rick Gaeta Carreon

Chapter 13

#37.00 Trustee's Motion to Dismiss Case

EH__

Docket 129

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rick Gaeta Carreon

Represented By
Ramiro Flores Munoz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-11131 Bruce Howard Ruggles and Ann Marie Ruggles

Chapter 13

#38.00 Trustee's Motion to Dismiss Case

EH__

Docket 131

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Howard Ruggles

Represented By
John F Brady

Joint Debtor(s):

Ann Marie Ruggles

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-13069 Katrina Mojarro Ruiz

Chapter 13

#39.00 Trustee's Motion to Dismiss Case

EH__

Docket 37

***** VACATED *** REASON: CASE DISMISSED 11/8/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Katrina Mojarro Ruiz

Represented By
Nancy Korompis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-14157 Joe Wallace Brown and Yolanda Denise Moore

Chapter 13

#40.00 Trustee's Motion to Dismiss Case

EH__

Docket 57

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joe Wallace Brown

Represented By
Christopher J Langley

Joint Debtor(s):

Yolanda Denise Moore

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-14292 Lubna Shiraz Ahmed

Chapter 13

#41.00 CONT Trustee's Motion to Dismiss Case

From: 10/17/19, 10/31/19

EH__

Docket 91

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lubna Shiraz Ahmed

Represented By
Joshua L Sternberg

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-14469 Mario Timothy Velasquez and Susan Lorraine Velasquez

Chapter 13

#42.00 Trustee's Motion to Dismiss Case

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mario Timothy Velasquez

Represented By
Paul Y Lee

Joint Debtor(s):

Susan Lorraine Velasquez

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-14650 Brian Eugene Anderson and Gina Marie Anderson

Chapter 13

#43.00 Trustee's Motion to Dismiss Case

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian Eugene Anderson

Represented By
Todd L Turoci

Joint Debtor(s):

Gina Marie Anderson

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-14789 Sadia Sohail

Chapter 13

#44.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 83

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
9/26/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sadia Sohail

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-15343 Jose Gabriel Sahagun, Jr.

Chapter 13

#45.00 CONT Trustee's Motion to Dismiss Case

From: 10/17/19, 11/7/19

EH __

Docket 26

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/19/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Gabriel Sahagun Jr.

Represented By
Richard G Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-15524 Thanaa Victor Fransis

Chapter 13

#46.00 CONT Trustee's Motion to Dismiss Case

From: 10/31/19

EH__

Docket 57

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Thanaa Victor Fransis

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-16542 Mike A. Granados, Jr. and Carolynne Jeannette Granados

Chapter 13

#47.00 Trustee's Motion to Dismiss Case

EH__

Docket 57

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mike A. Granados Jr.

Represented By
Gregory M Shanfeld

Joint Debtor(s):

Carolynne Jeannette Granados

Represented By
Gregory M Shanfeld
Gabiella Gonzales

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-19890 Katrina Renee McDowell

Chapter 13

#48.00 CONT Trustee's Motion to Dismiss Case

From: 4/25/19; 6/27/19, 8/22/19, 9/19/19

EH__

Docket 57

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/10/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Katrina Renee McDowell

Represented By
Jenny L Doling

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:17-20652 Marian Amelia Pagano

Chapter 13

#49.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 43

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/28/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marian Amelia Pagano

Represented By
David Lozano

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-11653 Richard Espinoza

Chapter 13

#50.00 Trustee's Motion to Dismiss Case

EH__

Docket 46

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Espinoza

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-13172 Michelle Cadena Quinn

Chapter 13

#51.00 Trustee's Motion to Dismiss Case

EH__

Docket 86

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Cadena Quinn

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-14725 Percylyn Agustin Basa

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH__

Docket 80

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Percylyn Agustin Basa

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-15192 Everett T Cain

Chapter 13

#53.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 49

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/20/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Everett T Cain

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-16178 Eriberto A. Sandoval

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH__

Docket 63

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eriberto A. Sandoval

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-16237 Miguel Santa Maria and Lilia Maldonado

Chapter 13

#55.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Santa Maria

Represented By
Todd L Turoci

Joint Debtor(s):

Lilia Maldonado

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-18374 Mariama T Jobe

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 53

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/29/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mariama T Jobe

Represented By
Gary S Saunders

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-18415 Donna Denise Upton

Chapter 13

#57.00 Trustee's Motion to Dismiss Case

EH__

Docket 46

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
10/29/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Donna Denise Upton

Represented By
Seema N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-19696 Corinthia A. Williams

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 65

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Corinthia A. Williams

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-20232 Diana Marie Perrone

Chapter 13

#59.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19, 11/7/19

EH__

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Diana Marie Perrone

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:19-10001 Jose Diaz and Betty Diaz

Chapter 13

#60.00 CONT Trustee's Motion to Dismiss Case

From: 10/31/19

EH__

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Diaz

Represented By
Nima S Vokshori

Joint Debtor(s):

Betty Diaz

Represented By
Nima S Vokshori

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:19-10934 Jorge Ramirez and Evelia Ramirez

Chapter 13

#61.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19

EH__

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Ramirez

Represented By
Christopher J Langley

Joint Debtor(s):

Evelia Ramirez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:19-11023 Keary A. Harris and Kimberly H. Olson-Harris

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH__

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Keary A. Harris

Represented By

Patricia M Ashcraft - SUSPENDED BK -
Gregory Ashcraft

Joint Debtor(s):

Kimberly H. Olson-Harris

Represented By

Patricia M Ashcraft - SUSPENDED BK -
Gregory Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:19-11103 Golda Y Williams

Chapter 13

#63.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19, 11/7/19

EH__

Docket 25

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Golda Y Williams

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:19-11281 Nadia Michelle Lipscomb

Chapter 13

#64.00 Trustee's Motion to Dismiss Case

EH__

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nadia Michelle Lipscomb

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:19-11911 Jorge Manuel Azmitia and Yoshiko Azmitia

Chapter 13

#65.00 CONT Trustee's Motion to Dismiss Case

From: 10/31/19

EH__

Docket 59

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Manuel Azmitia

Represented By
Nicholas M Wajda

Joint Debtor(s):

Yoshiko Azmitia

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:19-14735 Trinen Arniese Pratt

Chapter 13

#66.00 CONT Trustee's Motion to Dismiss Case

From: 10/31/19

EH__

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Trinen Arniese Pratt

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:19-15596 Eduardo Lomeli

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH__

Docket 35

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eduardo Lomeli

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-10496 Luis Fuentes Moreno

Chapter 13

#67.10 Trustee's Motion to Dismiss Case

EH__

Docket 60

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Fuentes Moreno

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:18-17556 Daniel Javier Garcia

Chapter 13

#67.20 Trustee's Motion to Dismiss Case

EH__

Docket 79

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Javier Garcia

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

11:01 AM

6:19-10531 Kimberly A Hardcastle

Chapter 13

#67.30 CONT Trustee's Motion to Dismiss Case

From: 10/17/19, 11/7/19

EH__

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kimberly A Hardcastle

Represented By
Jenny L Doling

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

1:00 PM

6:19-19422 Eugenio Giuseppe Mannella

Chapter 13

#68.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 32589 Winterberry Lane, Lake Elsinore, CA and as to all creditors.

MOVANT: EUGENIO GIUSEPPE MANNELLA

From: 11/12/19

EH__

Docket 7

Tentative Ruling:

TENTATIVE RULING:

11/12/19

Service: Proper
Opposition: None

The Court has reviewed the motion. Notice was improper because Debtor fail to include Cottonwood Canyon Hills Community Association and served the listed creditors eighteen days before the hearing, violating the regular notice requirements pursuant to LBR 9013-1. Thus, the Court will CONTINUE the motion, so Debtor can properly serve all the creditors involved and give them ample time to respond to the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Eugenio Giuseppe Mannella

Represented By
Suzette Douglas

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, November 21, 2019

Hearing Room 303

1:00 PM

CONT... Eugenio Giuseppe Mannella

Chapter 13

Movant(s):

Eugenio Giuseppe Mannella

Represented By
Suzette Douglas
Suzette Douglas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, November 25, 2019

Hearing Room 303

10:00 AM

6:17-13853 Malik Muhammad Asif

Chapter 7

Adv#: 6:17-01197 Itria Ventures, LLC v. Asif et al

#1.00 Trial RE: [1] Adversary case 6:17-ap-01197. Complaint by Itria Ventures, LLC against Malik Muhammad Asif, Zobia Asif. false pretenses, false representation, actual fraud)) (Chekian, Michael)

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/17/20 AT 10:00 A.M.**

Party Information

Debtor(s):

Malik Muhammad Asif

Represented By
Todd L Turoci

Defendant(s):

Malik Muhammad Asif

Represented By
David T Egli

Zobia Asif

Represented By
David T Egli

Joint Debtor(s):

Zobia Asif

Represented By
Todd L Turoci

Plaintiff(s):

Itria Ventures, LLC

Represented By
Michael F Chekian

Trustee(s):

Arturo Cisneros (TR)

Represented By
Thomas H Casey

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, November 26, 2019

Hearing Room 303

10:00 AM

6:17-13853 Malik Muhammad Asif

Chapter 7

Adv#: 6:17-01197 Itria Ventures, LLC v. Asif et al

#1.00 CONT Trial RE: [1] Adversary case 6:17-ap-01197. Complaint by Itria Ventures, LLC against Malik Muhammad Asif, Zobia Asif. false pretenses, false representation, actual fraud)) (Chekian, Michael)

From: 11/25/19

EH__

Docket 1

*** VACATED *** REASON: CONTINUED TO 3/17/20 AND 3/18/20 AT 10:00 A.M.

Party Information

Debtor(s):

Malik Muhammad Asif

Represented By
Todd L Turoci

Defendant(s):

Malik Muhammad Asif

Represented By
David T Egli

Zobia Asif

Represented By
David T Egli

Joint Debtor(s):

Zobia Asif

Represented By
Todd L Turoci

Plaintiff(s):

Itria Ventures, LLC

Represented By
Michael F Chekian

Trustee(s):

Arturo Cisneros (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 26, 2019

Hearing Room 303

10:00 AM

CONT... Malik Muhammad Asif

Thomas H Casey

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 26, 2019

Hearing Room 303

12:00 PM

6:19-18669 Patrick Kojima

Chapter 7

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 FORD EDGE, VIN 2FMPK3J82HBB61910

MOVANT: CAB WEST LLC

From: 11/19/19

EH__

Docket 24

Party Information

Debtor(s):

Patrick Kojima

Represented By
Edward J. Fetzer

Movant(s):

Cab West, LLC

Represented By
Sheryl K Ith

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, November 26, 2019

Hearing Room 303

12:00 PM

6:19-19593 Jose Antonio Mele and Victoria Isabel Mele

Chapter 13

#3.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate: 6224 Stanton Ave., Highland, CA 92346

MOVANT: JOSE MELE & VICTORIA MELE

From: 11/19/19

EH__

Docket 10

Party Information

Debtor(s):

Jose Antonio Mele

Represented By
Chris A Mullen

Joint Debtor(s):

Victoria Isabel Mele

Represented By
Chris A Mullen

Movant(s):

Jose Antonio Mele

Represented By
Chris A Mullen

Victoria Isabel Mele

Represented By
Chris A Mullen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Monday, December 2, 2019

Hearing Room 303

1:00 PM

6:18-10155 Jose De Jesus Hernandez

Chapter 11

#1.00 Motion For Sale of Property of the Estate under Section 363(b) - No Fee Debtors Motion For Order (1) Authorizing Sale Of Real Property (3095 Ocelot Circle, Corona, Ca 92882) (2) Confirming Sale To Third Party; (3) Determining That Buyer Is A Good Faith Purchaser

EH__

Docket 193

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-19905 Stephanie Brown

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 2180 W. 48th St., San Bernardino, CA 92407

MOVANT: KENNY PARADA

CASE DISMISSED 11/26/19

EH__

Docket 7

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper

Opposition: None

As to the merits, cause exists to GRANT under 11 U.S.C § 362(d)(1), and ¶¶ 2, 5, and 6. The Court will DENY ¶ 4 as no evidence is presented in support of annulment.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Stephanie Brown

Pro Se

Movant(s):

Kenny Parada

Represented By
William E Windham

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-19823 David Anthony Meisland

Chapter 13

#2.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 26818 Montseratt Court, Murrieta, CA 92563

MOVANT: DAVID ANTHONY MEISLAND

EH ____

Docket 11

Tentative Ruling:

TENTATIVE RULING:

12/3/19

Service: Improper
Opposition: None

The Court has reviewed the motion. Service was improper pursuant to Fed. Rule Bankr. Procedure 7004. Moreover, the evidence presented to rebut the presumption the case was not filed in good faith is not clear or convincing as to any detail regarding specifics of Debtor's change in income. Thus, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David Anthony Meisland

Represented By
Marc A Duxbury

Movant(s):

David Anthony Meisland

Represented By
Marc A Duxbury

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... David Anthony Meisland

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-19814 Jay Tony Klester

Chapter 13

#3.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 891 Sugar Pine Circle

MOVANT: JAY TONY KLESTER

EH__

Docket 11

Tentative Ruling:

TENTATIVE RULING:

12/3/19

Service: Proper
Opposition: None

The Court has reviewed the motion: notice acceptable and no opposition has been filed. Reviewing Debtor's prior dismissals, the Court notes that six out of the seven petitions filed by Debtor were dismissed because Debtor failed to submit required documents. In this case, Debtor is represented by counsel. Appearing that Debtor has provided sufficient evidence to rebut the statutory presumption of 11 U.S.C. § 362(c)(4)(D)(i) that the case was not filed in good faith, the Court is inclined to GRANT the motion, IMPOSING the stay as to all creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jay Tony Klester

Represented By
Yelena Gurevich

Movant(s):

Jay Tony Klester

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Jay Tony Klester

Yelena Gurevich

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-19813 Francisco R Palacios

Chapter 13

#4.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 23856 Citrus Avenue, Perris CA 92570

MOVANT: FRANCISCO R PALACIOS

EH__

Docket 20

Tentative Ruling:

TENTATIVE RULING:

12/3/19

Service: Improper
Opposition: None

Per the Court's miscellaneous instructions, if a secured credit has filed a motion for relief from automatic stay in a prior case, this motion has to have been served on counsel who filed the relief from stay in the prior case. Not having done so, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Francisco R Palacios

Represented By
David A Akintimoye

Movant(s):

Francisco R Palacios

Represented By
David A Akintimoye

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Francisco R Palacios

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-19776 Christopher Monroe and Aysheh Spicer

Chapter 13

#5.00 Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real property located at 2584 W Fairview Dr., Rialto, CA 92377

MOVANT: CHRISTOPHER MONROE AND AYSHEH SPICER

CASE DISMISSED 11/22/19

EH__

Docket 12

Tentative Ruling:

TENTATIVE RULING:

12/3/19

Service: Proper
Opposition: None

Debtors claim that their last case was dismissed because they were unaware of when their payment was due. This justification seems questionable, especially when Debtors were represented by counsel. Debtors, because of their failing in their prior petition, state they are now aware of when their plan payments will be due.

Furthermore, the Court is unable to opine on Debtors' Chapter 13 plan, which purports to pay creditors in full, because the file is corrupt. Last, the declaration presented is made by Christopher Lee Summer, who is not a debtor in this case. Thus, it appears that Debtors failed to provide sufficient evidence to rebut the statutory presumption of 11 U.S.C. § 362(c)(3)(C)(i) that the case was not filed in good faith. The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Christopher Monroe and Aysheh Spicer

Chapter 13

Debtor(s):

Christopher Monroe

Represented By
Paul Y Lee

Joint Debtor(s):

Aysheh Spicer

Represented By
Paul Y Lee

Movant(s):

Christopher Monroe

Represented By
Paul Y Lee

Aysheh Spicer

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-19359 Jesus Antonio Palomares and Claudia Heredia Palomares

Chapter 13

#6.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate re 8490 Bellmore St. Riverside CA 92509

MOVANT: JESUS ANTONIO PALOMARES

From: 11/12/19

EH__

Docket 8

Tentative Ruling:

TENTATIVE RULING:

11/12/19

Service: Proper
Opposition: None

Debtors claim that their last case was dismissed because they failed to check certain boxes. In the prior case, Debtors represented themselves. Debtors have decided to also represent themselves in this proceeding. Furthermore, Debtors have not stated any method or manner that will ensure the court such mistakes will not continue to happen. Thus, it appears that Debtors failed to provide sufficient evidence to rebut the statutory presumption of 11 U.S.C. § 362(c)(4)(D)(i) that the case was not filed in good faith. The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jesus Antonio Palomares

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Jesus Antonio Palomares and Claudia Heredia Palomares

Chapter 13

Joint Debtor(s):

Claudia Heredia Palomares Pro Se

Movant(s):

Jesus Antonio Palomares Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-19335 Sandraea La 'Jean Plummer

Chapter 13

#7.00 Amended Motion (related document(s): 17 Motion in Individual Case For Order Continuing Automatic Stay filed by Debtor Sandraea La 'Jean Plummer)

MOVANT: SANDRAEA LA'JEAN PLUMMER

EH__

Docket 20

Tentative Ruling:

TENTATIVE RULING:

12/3/19

Service: Improper
Opposition: None

The Court has reviewed the motion. Notice was improper because Debtor fail to serve Lakeview Mortgage and Nissan Motor Acceptance pursuant to Fed. R. of Bankr. Procedure 7004(b)(3). More importantly, the hearing was set thirty days after the filing of the case, so the motion must be denied pursuant to 11 U.S.C. § 362(c)(3)(B).

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sandraea La 'Jean Plummer

Represented By
Cynthia A Dunning

Movant(s):

Sandraea La 'Jean Plummer

Represented By
Cynthia A Dunning

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Sandraea La 'Jean Plummer

Chapter 13

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-18718 William Arthur Conn, Jr and Jennifer Jaques-Conn

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 BMW X2 sDrive28i Sport Utility 4D

MOVANT: FINANCIAL SERVICES VEHICLE TRUST

EH__

Docket 10

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

William Arthur Conn Jr Pro Se

Joint Debtor(s):

Jennifer Jaques-Conn Pro Se

Movant(s):

Financial Services Vehicle Trust Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... William Arthur Conn, Jr and Jennifer Jaques-Conn

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-18639 David M. Gunty and Megan A. Gunty

Chapter 7

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3584 Nelson St., Riverside, CA 92506

MOVANT CALIBER HOME LOANS, INC.

EH__

Docket 13

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper
Opposition: None

Movant to provide updated calculation of arrears. and parties to apprise the court on adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

David M. Gunty

Represented By
Lazaro E Fernandez

Joint Debtor(s):

Megan A. Gunty

Represented By
Lazaro E Fernandez

Movant(s):

Caliber Home Loans, Inc.

Represented By
Christina J Khil

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... David M. Gunty and Megan A. Gunty

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-18380 Laura Marie Beauchamp

Chapter 7

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6084 HOLLAND COURT, CORONA, CALIFORNIA 92880

MOVANT: THE BANK OF NEW YORK MELLON

EH__

Docket 19

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Laura Marie Beauchamp

Represented By
Ronald W Ask

Movant(s):

The Bank of New York Mellon f/k/a

Represented By
Stephen T Hicklin

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Laura Marie Beauchamp

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-18310 LA Holding, LLC

Chapter 7

#11.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 433 Diamond Drive, Lake Elsinore, CA 92503

MOVANT: OKC VENTURES, LLC

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LA Holding, LLC

Represented By
James R Felton
Jeremy H Rothstein

Movant(s):

OKC Ventures, LLC

Represented By
David A Tilem

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-18212 Timothy Lyle Whiteman and Elizabeth Anne Whiteman

Chapter 7

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Chevrolet Equinox, VIN: 2GNALBEK3F6357732

MOVANT: SANTANDER CONSUMER USA INC.

EH__

Docket 11

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under ¶11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Timothy Lyle Whiteman Pro Se

Joint Debtor(s):

Elizabeth Anne Whiteman Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Timothy Lyle Whiteman and Elizabeth Anne Whiteman

Chapter 7

Movant(s):

Santander Consumer USA Inc.

Represented By
Sheryl K Ith

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-18154 Xavier Romero

Chapter 7

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Jeep Grand Cherokee, VIN: 1C4RJEAGXHC756880

MOVANT: SANTANDER CONSUMER USA INC

EH__

Docket 10

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § §362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under paragraph 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Xavier Romero

Represented By
W. Derek May

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Sheryl K Ith

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Xavier Romero

Chapter 7

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-18003 Ruben Macias and Carmen Macias

Chapter 13

#14.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2016 Lexus RC 200T, VIN: JTHHA5BC9G5000224

MOVANT: SANTANDER CONSUMER USA INC

EH__

Docket 22

Tentative Ruling:

Tentative Ruling:

12/3/2019

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. GRANT relief from stay against co-debtor, 11 U.S.C § 1301. DENY alternative request under ¶11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ruben Macias

Represented By
Dana Travis

Joint Debtor(s):

Carmen Macias

Represented By
Dana Travis

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Ruben Macias and Carmen Macias

Chapter 13

Movant(s):

Santander Consumer USA Inc.

Represented By
Sheryl K Ith

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-17702 Angelica Andrade Burgos

Chapter 7

#15.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: (2017 Chevrolet Cruze Vin # 1G1BE5SM1H7102619)

MOVANT: ALLY BANK

EH__

Docket 9

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Angelica Andrade Burgos

Represented By
Edgar P Lombera

Movant(s):

Ally Bank

Represented By
Adam N Barasch

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Angelica Andrade Burgos

Chapter 7

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-17393 Gabriel Perez and Janyn Perez

Chapter 7

#16.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3464 Harrison Avenue Lake Elsinore, California 92530

MOVANT: CALIFORNIA HOUSING FINANCE AGENCY

From: 11/5/19

EH ____

Docket 14

Tentative Ruling:

11/05/2019

Service is Proper
Opposition: Yes

Movant to confirm arrears have been cured. The Court also notes that, based upon the amended schedules of Debtor, filed October 21, 2019, the only evidence before the Court regarding the fair market value of the subject property indicates that there is a significant equity cushion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gabriel Perez

Represented By
Glen J Biondi

Joint Debtor(s):

Janyn Perez

Represented By
Glen J Biondi

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Gabriel Perez and Janyn Perez

Chapter 7

Movant(s):

California Housing Finance Agency

Represented By
Anna Landa
Diana Torres-Brito

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-15963 Ramon H. Ventura, Jr. and Clementine Ventura

Chapter 13

#17.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 MERCEDES-BENZ C300W VIN 55SWF4JB1HU195912

MOVANT: DAIMLER TRUST

EH__

Docket 35

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶¶ 2 and 6. DENY ¶ 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ramon H. Ventura Jr.

Represented By
Gregory Ashcraft

Joint Debtor(s):

Clementine Ventura

Represented By
Gregory Ashcraft

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Ramon H. Ventura, Jr. and Clementine Ventura

Chapter 13

Movant(s):

Daimler Trust

Represented By
Jennifer H Wang
Sheryl K Ith

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-14029 Cynthia Molina Gomez

Chapter 13

#18.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15584 NORTHWIND AVE., FONTANA, CA 92336

MOVANT: ROUNDPOINT MORTGAGE SERVICING CORPORATION

EH__

Docket 38

*** VACATED *** REASON: ORDER ENTERED 11/27/19

Tentative Ruling:

Party Information

Debtor(s):

Cynthia Molina Gomez

Represented By
Joshua L Sternberg

Movant(s):

RoundPoint Mortgage Servicing

Represented By
Nathan F Smith
Christina J Khil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:18-20176 Garry Kenneth Frazier

Chapter 13

#19.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 21851 Mohican Ave. Apple Valley CA 92307

MOVANT: FREEDOM MORTGAGE CORPORATION

From: 11/5/19

EH ____

Docket 37

Tentative Ruling:

11/5/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears and adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Garry Kenneth Frazier

Represented By
John F Brady

Movant(s):

Freedom Mortgage Corporation

Represented By
Christina J Khil
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:18-20070 Alexander J Perfinowicz and Ingeborg Maria Pefinowicz

Chapter 13

#20.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 999 Pineridge Street, Upland, CA 91784

MOVANT: JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

EH__

Docket 50

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper

Opposition: Debtor

Parties to apprise the court on adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Alexander J Perfinowicz

Represented By
Manfred Schroer

Joint Debtor(s):

Ingeborg Maria Pefinowicz

Represented By
Manfred Schroer

Movant(s):

JPMorgan Chase Bank, National

Represented By
Nancy L Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Alexander J Perfinowicz and Ingeborg Maria Pefinowicz

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:18-17927 Ertun Reshat and Hale Reshat

Chapter 13

#21.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 32042 CABERNET PL., WILDOMAR, CA 92595

MOVANT: WEI MORTGAGE CORPORATION

EH ____

Docket 45

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper
Opposition: None

The court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §362(d)(1). GRANT relief from Rule 4001(a) stay. GRANT requests under ¶¶ 2 and 3. DENY alternative request under paragraph 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Ertun Reshat

Represented By
April E Roberts

Joint Debtor(s):

Hale Reshat

Represented By
April E Roberts

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Ertun Reshat and Hale Reshat

Chapter 13

Movant(s):

WEI Mortgage Corporation

Represented By
Mark S Krause

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:18-17732 DeBora Debbie Walker

Chapter 13

#22.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 741 West Linn Point, San Jacinto, CA 92582

MOVANT: NATIONS DIRECT MORTGAGE LLC

From: 10/29/19

EH__

Docket 43

*** VACATED *** REASON: ORDER ENTERED 11/21/19

Tentative Ruling:

Tentative Ruling:

10/29/19

Service is Proper
Opposition: Debtor

Parties to apprise the court on adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

DeBora Debbie Walker

Represented By
Nicholas M Wajda

Movant(s):

NATIONS DIRECT MORTGAGE,

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... DeBora Debbie Walker

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:18-15239 Amanda E Curry and Matthew L Curry

Chapter 13

#23.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7232 Hermosa Avenue, Redondo, CA 91701

MOVANT: WILMINGTON SAVINGS FUND SOCIETY, FSB

EH__

Docket 60

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper

Opposition: Debtor

Parties to apprise the court on adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Amanda E Curry

Represented By
Andy C Warshaw

Joint Debtor(s):

Matthew L Curry

Represented By
Andy C Warshaw

Movant(s):

Wilmington Savings Fund

Represented By
Michelle R Ghidotti
Lemuel Bryant Jaquez

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Amanda E Curry and Matthew L Curry

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:18-13102 Luis Felipe Tejada and Veronica Esther Tejada

Chapter 13

#24.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1329 Sugar Maple Lane, Perris, California 92571

MOVANT: U.S. BANK NATIONAL ASSOCIATION

From: 10/29/19

EH__

Docket 36

Tentative Ruling:

Tentative Ruling:

10/29/19

Service is Proper
Opposition: Debtor

Parties to discuss amount of arrears and status of adequate protection order discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Luis Felipe Tejada

Represented By
Dana Travis

Joint Debtor(s):

Veronica Esther Tejada

Represented By
Dana Travis

Movant(s):

U.S. BANK NATIONAL

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

**CONT... Luis Felipe Tejada and Veronica Esther Tejada
Sean C Ferry**

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:18-11432 Armando Guzman

Chapter 13

#25.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 29351 Summerset Drive, Menifee, California, 92586 UNDER 11 U.S.C. § 362

MOVANT: FREEDOM MORTGAGE CORPORATION

EH__

Docket 53

Tentative Ruling:

Tentative Ruling:

12/3/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §362(d)(1). GRANT relief from Rule 4001(a) stay. GRANT requests under paragraph 2. DENY alternative request under paragraph 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Armando Guzman

Represented By
Daniel King

Movant(s):

Freedom Mortgage Corporation

Represented By
Christina J Khil
Dane W Exnowski

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Armando Guzman

Chapter 13

Ashley Popowitz
John D Schlotter

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:17-20240 Natona Smith and Tameiko Smith

Chapter 13

#26.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15573 Kearny Drive, Adelanto, CA 92301

MOVANT: FMJM RWL IV TRUST 2017-1

From: 8/20/19, 10/1/19

EH__

Docket 42

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties to inform the Court as to the status of the loan modification. Otherwise, it appears that relief from the stay is warranted.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Natona Smith

Represented By
Natalie A Alvarado

Joint Debtor(s):

Tameiko Smith

Represented By
Natalie A Alvarado

Movant(s):

FMJM RWL IV Trust 2017-1

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Natona Smith and Tameiko Smith

Chapter 13

Daniel K Fujimoto
Caren J Castle
Christopher Giacinto

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:17-15647 Omar Enrique Lopez

Chapter 13

#27.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 23502 Wooden Horse Trail, Murrieta, CA 92562-4721

MOVANT: EAGLE HOME MORTGAGE LLC

From: 8/20/19, 10/1/19

EH ____

Docket 53

Tentative Ruling:

Tentative Ruling:

8/20/2019

Service is Proper
Opposition: Yes

Parties are to inform the Court as to the status of adequate protection negotiations.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Omar Enrique Lopez

Represented By
Dana Travis

Movant(s):

Eagle Home Mortgage,LLC

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

CONT... Omar Enrique Lopez

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

11:00 AM

6:19-18981 Randolph E Marrujo

Chapter 7

#27.10 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 9800 South 5th Avenue, Inglewood, CA 90305

MOVANT: U.S. BANK TRUST N.A.

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Randolph E Marrujo	Pro Se
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Movant(s):

U.S. Bank Trust, N.A., as Trustee for	Represented By Christina J Khil
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Trustee(s):

Larry D Simons (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

2:00 PM

6:19-19930 Enrique Garcia and Flavia C Garcia

Chapter 11

#28.00 Order To Show Cause Why Case Should Not Be Dismissed For Failure To File/Execute The Following Document: For Individual Chapter 11 cases: List Of Creditors Who Have The 20 Largest Unsecured Claims Against You And Are Not Insiders (Official Form 104)
(Amended Document Filed 11/21/19)

EH__

Docket 23

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Enrique Garcia

Represented By
Michael R Totaro

Joint Debtor(s):

Flavia C Garcia

Represented By
Michael R Totaro

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#29.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2014 Ford E450; VIN# 1FDXE4FS8EDB19703

MOVANT: FORD MOTOR CREDIT COMPANY LLC

Also #30

EH__

Docket 197

Tentative Ruling:

Tentative Ruling:

12/3/19

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Ford Motor Credit Company LLC

Represented By
Randall P Mroczynski

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

2:00 PM

CONT... Woodcrest Ace Hardware Inc.

Chapter 11

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 3, 2019

Hearing Room 303

2:00 PM

6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#30.00 Motion for Authorization to Use Cash Collateral and Provide Adequate Protection

Also #29

EH__

Docket 199

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

10:00 AM

6:19-17523 Anna Maria Cabrera

Chapter 7

#1.00 CONT Pro se Reaffirmation Agreement Between Debtor and Ally Financial re:
2012 Chevrolet Cruze

From: 11/13/19

EH ____

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anna Maria Cabrera

Pro Se

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

10:00 AM

6:19-16453 Louis R Gonzales and Nicole A Gonzales

Chapter 7

#2.00 CONT Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation re 2016 Toyota Sienna

From: 11/13/19

EH__

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Louis R Gonzales	Pro Se
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Joint Debtor(s):

Nicole A Gonzales	Pro Se
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Trustee(s):

Steven M Speier (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

6:17-10240 Ariel A. Flores

Chapter 7

#3.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 75

Tentative Ruling:

12/4/19

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,850
Trustee Expenses: \$ 905.48

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Ariel A. Flores

Represented By
Stefan R Pancer

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

6:18-17730 Sally Jeanne Way

Chapter 7

#4.00 Trustee's Final Report and Applications for Compensation

EH ____

Docket 73

Tentative Ruling:

12/4/19

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 6,100
Trustee Expenses: \$ 154.30

Attorney Fees: \$ 16,542
Attorney Costs: \$ 769.61

Accountant Fees: \$1,596
Accountant Costs: \$266.90

Court Costs: \$350.00

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Sally Jeanne Way

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

CONT... Sally Jeanne Way

Summer M Shaw

Chapter 7

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Brandon J Iskander

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

6:19-12454 Arley Antonio Atehortua

Chapter 7

#5.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 22

Tentative Ruling:

12/4/19

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 601.25

Trustee Expenses: \$ 115.75

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Arley Antonio Atehortua

Represented By
Alon Darvish

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

6:18-18893 Gary Lee Braun and Michele Diane Braun

Chapter 7

#6.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 32

Tentative Ruling:

12/4/19

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,844.80

The Court notes that Trustee has not submitted any itemization or other evidence to support the expenses and requested and, as such, the Court is not inclined to approve the requested expenses.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gary Lee Braun

Represented By
Daniel King

Joint Debtor(s):

Michele Diane Braun

Represented By
Daniel King

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

CONT... Gary Lee Braun and Michele Diane Braun

Chapter 7

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

6:19-17012 Robert Dupper, Jr. and Amber Duncan

Chapter 7

#7.00 United States Trustee's Motion to Extend Dismissal and Discharge deadlines

EH__

Docket 17

Tentative Ruling:

12/4/2019

BACKGROUND

On August 9, 2019, Robert Dupper & Amber Duncan ("Debtors") filed a Chapter 7 voluntary petition. The meeting of creditors was originally set for September 9, 2019. On November 8, 2019, UST filed a motion for an extension of the deadlines to file a motion to dismiss the complaint or file an objection to discharge. UST's motion asserts that:

On the day the discharge and dismissal deadlines expired, the auditors notified the U.S. Trustee that they had discovered a material misstatement – that the Debtors failed to disclose a money market account containing approximately \$21,400.

The U.S. Trustee wishes to continue the discharge and dismissal deadlines so that he can engage in discovery and evaluate whether grounds exist to deny the Debtors' discharge or to dismiss the bankruptcy case.

[Dkt. No. 17, pg. 3]. The Court notes that on November 22, 2019, Tronconi Segarra

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

CONT... **Robert Dupper, Jr. and Amber Duncan** **Chapter 7**
and Associates LLP filed a report of audit with no material misstatement identified.

DISCUSSION

FED. R. BANKR. P. Rule 1017(e)(1) states:

Except as otherwise provided in § 704(b)(2), a motion to dismiss a case for abuse under § 707(b) or (c) may be filed only within 60 days after the first date set for the meeting of creditors under § 341(a), unless, on request filed before the time has expired, the court for cause extends the time for filing the motion to dismiss.

FED. R. BANKR. P. Rule 4004(a) states:

In a chapter 7 case, a complaint, or a motion under § 727(a)(8) or (9) of the Code, objecting to the debtor's discharge shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). In a chapter 11 case, the complaint shall be filed no later than the first date set for the hearing on confirmation. In a chapter 13 case, a motion objecting to the debtor's discharge under § 1328(f) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). At least 28 days' notice of the time so fixed shall be given to the United States trustee and all creditors as provided in Rule 2002(f) and (k) and to the trustee and the trustee's attorney.

And FED. R. BANKR. P. Rule 4004(b) states:

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11:00 AM

CONT... **Robert Dupper, Jr. and Amber Duncan**

Chapter 7

(1) On motion of any party in interest, after notice and hearing, the court may for cause extend the time to object to discharge. Except as provided in subdivision (b)(2), the motion shall be filed before the time has expired.

(2) A motion to extent the time to object to discharge may be filed after the time for objection has expired and before discharge is granted if (A) the objection is based on facts that, if learned after the discharge, would provide a basis for revocation under § 727(d) of the Code, and (B) the movant did not have knowledge of those facts in time to permit an objection. The motion shall be filed promptly after the movant discovers the facts on which the objection is based.

Here, the Court notes that the stated grounds justifying an extension of the deadlines recited above, that Debtors made a material misstatement in their bankruptcy documents, appears to either be contradicted or superseded by the report of audit filed on November 22, 2019.

TENTATIVE RULING

UST to apprise the Court of the status of the investigation.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Robert Dupper Jr.

Represented By
Paul Y Lee

Joint Debtor(s):

Amber Duncan

Represented By
Paul Y Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

CONT... Robert Dupper, Jr. and Amber Duncan

Chapter 7

Movant(s):

United States Trustee (RS)

Represented By
Everett L Green

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

6:17-20092 Mark Bastorous and Bernadette Shenouda

Chapter 7

#8.00 Motion to Extend Time Chapter 7 Trustee's Motion for Order Extending Time to File Actions Under 11 U.S.C. § 546(a)

EH__

Docket 94

Tentative Ruling:

12/4/19

BACKGROUND

On December 8, 2017, Mark Bastorous and Bernadette Shenouda ("Debtors") filed a Chapter 7 voluntary petition. Debtors' statement of financial affairs lists thirty-seven business entities related to Debtors.

On November 1, 2019, Trustee filed a motion for an order extending the time to file actions under 11 U.S.C. § 546(a). Trustee asserts that the financial affairs, including certain transfers, are still under investigation. Trustee requests that the deadline to file avoidance actions be extended to March 6, 2020. On November 19, 2019, the Court entered an order setting the matter for hearing.

DISCUSSION

11 U.S.C. § 546(a) states:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

CONT...

Mark Bastorous and Bernadette Shenouda

Chapter 7

- (a) An action or proceeding under section 544, 545, 547, 548, or 553 of this title may not be commenced after the earlier of –
- (1) the later of –
 - (A) 2 years after the entry of the order for relief; or
 - (B) 1 year after the appointment or election of the first trustee under section 702, 1104, 1163, 1202, or 1302 of this title if such appointment or such election occurs before the expiration of the period specified in subparagraph (A); or
 - (2) the time the case is closed or dismissed.

Here, application of § 546(a) would result in a deadline to file avoidance actions of December 8, 2019 – two years from the date Debtors filed their petition.

Trustee asserts that "[w]hen an extension of time is sought before the § 546 time period expires, the request is governed by the 'for cause' analysis under Rule 9006(b) of the Federal Rules of Bankruptcy Procedure." The Court disagrees that FED. R. BANKR. P. Rule 9006(b) applies to the request under consideration. Rule 9006(b) applies to situations where "an act is required or allowed to be done at or within a specified period *by these rules* or by a notice given thereunder or by order of court." Here, the deadline to file avoidance actions is not imposed by the Federal Rules of Bankruptcy Procedure or by order of this Court, but, rather, by the Bankruptcy Code itself. Therefore, Rule 9006(b) does not apply to this request.

The majority of courts have held that because the deadline imposed by 11 U.S.C. § 546(a) is not jurisdictional in nature, it may be waived by a defendant, either through failure to raise the defense or through stipulation. *See, e.g., In re Pugh*, 158 F.3d 530, 533-34 (5th Cir. 1998) (Section 546(a) statute of limitations is subject to waiver).

Additionally, the section 546(a) deadline is subject to equitable tolling. *See, e.g., In re Milby*, 875 F.3d 1229 (9th Cir. 2017). As the Ninth Circuit stated in *In re Milby*:

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Wednesday, December 4, 2019

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11:00 AM

CONT... Mark Bastorous and Bernadette Shenouda

Chapter 7

The doctrine of equitable tolling is read into every federal statute of limitation. Indeed, we have previously applied equitable tolling to § 546(a)(1). A litigant seeking equitable tolling bears the burden of establishing two elements: (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way and prevented timely filing.

Id. at 1232 (quotations and citations omitted). The Ninth Circuit standard outlined in *Milby* supports this Court's conclusion that Rule 9006(b) is not applicable to the instant situation because if a simple for cause standard was applicable, then the more rigorous standard for equitable tolling would be superfluous.

Here, Trustee has not provided any legal analysis or evidence to support a holding that equitable tolling is appropriate in the instant situation.

TENTATIVE RULING

The Court is inclined to DENY the motion or CONTINUE the matter for Trustee to file a supplemental brief and additional evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mark Bastorous

Represented By
Thomas F Nowland

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

CONT... Mark Bastorous and Bernadette Shenouda

Chapter 7

Joint Debtor(s):

Bernadette Shenouda

Represented By
Thomas F Nowland

Movant(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

Trustee(s):

John P Pringle (TR)

Represented By
David M Goodrich
Reem J Bello

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

6:17-19042 Trending Up

Chapter 7

#9.00 Motion to Disallow Claim No 3-1 of Jessica Ramirez

EH__

Docket 25

Tentative Ruling:

12/4/19

BACKGROUND:

On October 30, 2017, Trending Up ("Debtor") filed a Chapter 7 voluntary petition. On February 9, 2018, Trustee filed a notice of assets, and the claims bar date was set for May 15, 2018, although the Court notes that the only creditor listed in the schedules was Wells Fargo Bank.

On June 21, 2018, Jessica Ramirez ("Creditor") filed a proof of claim for a priority claim in the amount of \$5,520.97 ("Claim 3"). On October 25, 2019, Trustee filed an objection to Claim 3, arguing that the claim does not contain adequate supporting information. Alternatively, Trustee argues that Claim 3 should be subordinated to timely filed claims.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy

**United States Bankruptcy Court
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Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

CONT...

Trending Up

Chapter 7

Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

Addressing Trustee's alternative argument, the Court notes Trustee appears to miss 11 U.S.C. § 726(a)(1) which allows priority claims to avoid subordination as long as the priority claim is filed before: (1) 10 days after the trustee's final report is mailed to creditors; and (2) trustee commences final distribution. Therefore, if Trustee does not succeed in having the claim disallowed, it cannot be subordinated.

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

CONT... Trending Up

Chapter 7

Turning to the adequacy of Claim 3, FED. R. BANKR. P. Rule 3001(c)(1) states the following: "Except for a claim governed by paragraph (3) of this subdivision, when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim." And FED. R. BANKR. P. Rule 3001(f) implies that a proof of claim's *prima facie* validity depends upon the claim being "executed and filed in accordance with these rules." Furthermore, as noted by the BAP: "If the creditor does not provide information or is unable to support its claim, then that in itself may raise an evidentiary basis to object to the unsupported aspects of the claim, or even a basis for evidentiary sanctions, thereby coming within Section 502(b)'s grounds to disallow the claim." *In re Heath*, 331 B.R. 424, 437 (B.A.P. 9th Cir. 2005).

Here, Claim 3 simply contains a single, handwritten page which itemizes amounts Creditor asserts she is owed for: (1) wages; (2) wages; (3) liquidated damages pursuant to Labor Code Section 1194.2; and (4) additional wages accrued pursuant to Labor Code Section 203. Creditor does not provide any evidence: (a) detailing the calculation of the amounts requested; or (b) justifying her entitlement to the amounts requested. For those reasons, and noting that Claim 3 is not entitled to *prima facie* validity, the Court finds it appropriate to disallow the claim.

Finally, the Court deems Creditors' failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 3 in its entirety.

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Wednesday, December 4, 2019

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CONT... Trending Up

Chapter 7

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Trending Up

Represented By
Daniel King

Movant(s):

Larry D Simons (TR)

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

6:19-18878 Suzanne Joyce Vargo-Wagner

Chapter 7

#10.00 CONT Emergency Motion To Compel Restoration Of Utilities, To Enforce The Automatic Stay, For Actual And Punitive Damages, And Attorney Fees For Violation Of Automatic Stay

From: 10/17/19

EH ____

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Suzanne Joyce Vargo-Wagner	Pro Se
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Movant(s):

Suzanne Joyce Vargo-Wagner	Pro Se
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Trustee(s):

Howard B Grobstein (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

11:00 AM

6:13-23186 Richard C Cox, Jr

Chapter 7

#11.00 CONT Notice of Motion and Chapter 7 Trustees Motion for Order Disallowing Claim 17 of Richard and Donna Cox For Lack of Documentation; Or In the Alternative, Reducing Claim 17 to Reflect Amounts Paid by the Chapter 13 Trustee

From: 11/13/19

EH__

Docket 184

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/26/19**

Tentative Ruling:

11/13/19

BACKGROUND:

On August 1, 2013, Richard Cox ("Debtor") filed a Chapter 13 voluntary petition. On September 26, 2013, Debtor's Chapter 13 plan was confirmed. Debtor's Chapter 13 was subsequently modified once. On June 30, 2016, Debtor's case was converted to Chapter 7. On January 6, 2017, Debtor received a Chapter 7 discharge.

On December 10, 2013, a proof of claim in the amount of \$34,000 ("Claim 17") was filed by Debtor on behalf of Richard & Donna Cox ("Creditors"), who appear to be his parents. On October 7, 2019, the Chapter 7 Trustee filed an objection to Claim 17, arguing that the claim does not contain adequate supporting information. Trustee asserts that he propounded a request for additional information upon Creditors, but that, despite being given more than 100 days to respond, Creditors took no action.

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CONT... Richard C Cox, Jr

Chapter 7

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

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Hearing Room 303

11:00 AM

CONT... Richard C Cox, Jr

Chapter 7

As a preliminary matter, the Court notes that 11 U.S.C. § 501(c) states that: "If a creditor does not timely file a proof of such creditor's claim, the debtor or the trustee may file a proof of such claim." As outlined in FED. R. BANKR. P. Rule 3004, the debtor and the trustee have thirty days once the claim filing deadline has passed to file a proof of claim on behalf of a creditor. Here, the deadline to file proofs of claims was December 11, 2013, yet Debtor filed Claim 17 on December 10, 2013. Therefore, Debtor technically filed the proof of claim prematurely.

Turning to the merits of Claim 17, FED. R. BANKR. P. Rule 3001(c)(1) states the following: "Except for a claim governed by paragraph (3) of this subdivision, when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim." And FED. R. BANKR. P. Rule 3001(f) implies that a proof of claim's *prima facie* validity depends upon the claim being "executed and filed in accordance with these rules." Therefore, Claim 17 in this case is not entitled to *prima facie* validity.

Furthermore, as noted by the BAP: "If the creditor does not provide information or is unable to support its claim, then that in itself may raise an evidentiary basis to object to the unsupported aspects of the claim, or even a basis for evidentiary sanctions, thereby coming within Section 502(b)'s grounds to disallow the claim." *In re Heath*, 331 B.R. 424, 437 (B.A.P. 9th Cir. 2005). Here, Claim 17 contains no supporting information whatsoever and, despite now being given more than four months to provide such information or amend or supplement Claim 17, Creditors have taken no action. For that reason, and noting that Claim 17 is not entitled to *prima facie* validity, the Court finds it appropriate to disallow the claim.

Finally, the Court deems Creditors' failure to oppose to be consent to the relief requested pursuant to Local Rule 9013-1(h).

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CONT... Richard C Cox, Jr

Chapter 7

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 17 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Richard C Cox Jr

Represented By
Summer M Shaw

Movant(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

Trustee(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Brandon J Iskander
Lynda T Bui

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Hearing Room 303

11:00 AM

6:11-19270 Rene Antonio Ferrer and Lucia Margarita Lopez

Chapter 7

#12.00 Motion For Order Approving Settlement And Compromise Of Dispute By And Between Chapter 7 Trustee And American Medical Systems, Inc.

EH__

Docket 70

Tentative Ruling:

12/4/19

BACKGROUND

On March 22, 2011, Rene Ferrer & Lucia Lopez ("Debtors") filed a Chapter 7 voluntary petition. On July 27, 2011, Debtors received a discharge, and the case was subsequently closed.

On August 11, 2017, Debtors filed a motion to reopen their case to ensure they "complied with all requirements of the bankruptcy code for reporting a potential asset." [Dkt. No. 15]. On June 8, 2018, the case was reopened.

On June 29, 2018, Debtors filed amended schedules, disclosing a litigation claim against American Medical Systems, Inc. (the "Litigation Claim"), and exempting the Litigation Claim. On July 25, 2018, Trustee filed an objection to Debtors' claimed exemption in the Litigation Claim. Because Debtors claimed exemptions under both CAL. CIV. P. Code § 703 and § 704, the Court sustained Trustee's objection. On August 28, 2019, Debtors amended Schedule C again.

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CONT... **Rene Antonio Ferrer and Lucia Margarita Lopez**

Chapter 7

On September 27, 2018, Trustee filed a motion to reconsider the order reopening the case, arguing that it was improper to allow Debtors to amend their schedules in the order reopening the case because Debtors had not met the standard required by FED. R. BANKR. P. Rule 9006(b)(1). The same day, Trustee filed an objection to Debtors' amended exemptions. After Debtors filed a late opposition to Trustee's motion to reconsider, the Court continued the motion to reconsider and the objection to Debtors' claimed exemptions. Ultimately, the Court granted Trustee's motion to reconsider the order reopening the case, while striking Debtors amended schedules. [Dkt. No. 67]. The Court's order, entered December 26, 2018, permitted Debtors to file a motion for leave to amend their schedules, but no such motion was ever filed.

On October 17, 2019, Trustee filed a motion to approve a compromise of the Litigation Claim for \$60,000. On November 7, 2019, the Court set the matter for hearing, requiring Trustee to file a supplement regarding the estimated valuation of the Litigation Claim. On November 22, 2019, Trustee filed its supplement.

DISCUSSION

FED. R. BANKR. P. Rule 9019 provides that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

The Ninth Circuit Court of Appeals have previously outlined the factors to be considered in approving a compromise pursuant to Rule 9019: (1) the probability of success in the litigation; (2) the difficulties to be encountered in the matter of collection; (3) the complexity, expense, inconvenience and delay of litigation; and (4) the interest of creditors with deference to their reasonable expectations. *See In re A&C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). The listed factors assist the Court in

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CONT... Rene Antonio Ferrer and Lucia Margarita Lopez

Chapter 7

determining "the fairness, reasonableness and adequacy of a proposed settlement agreement." *Id.*

Regarding the first factor, Trustee asserts that probability of success in the litigation is uncertain. Trustee notes that "Debtors' cooperation in future litigation is not assured," presumably because Debtors do not currently have an exemption in the Litigation Claim.

Regarding the second factor, Trustee asserts that there may be difficulties in collection because American Medical Systems, Inc. may be facing financial difficulties.

Regarding the third factor, Trustee asserts that it is likely that the Litigation Claim "would require vigorous and costly litigation in order to prosecute the matter to final judgment likely with the need for new personal injury counsel with experience in multidistrict litigation at great expense to the estate and its creditors.

Regarding the fourth factor, Trustee asserts that the settlement of the Litigation Claim obtains maximum value for the bankruptcy estate. In support of this assertion, Trustee's supplemental declaration indicates that the proposed compromise is approximately equal to the average amount obtained by class action plaintiffs in a settlement with Johnson & Johnson that also dealt with pelvic mesh implants, and is higher than the average amount obtained in a class action settlement with American Medical Systems Canada, Inc.

Having reviewed Trustee's motion and the supplement declaration, the Court concludes that Trustee has satisfied the *A&C Properties* test. Specifically, the Court notes that Trustee has supplied detailed and compelling evidence that the settlement of the Litigation Claim is in an amount equal to or greater than the average settlement amount for similar claims. Additionally, the complex nature of the lawsuit, the uncertain financial situation of American Medical Systems, Inc., and the possible non-cooperation of Debtors all weigh in favor of approval of the proposed compromise.

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CONT... **Rene Antonio Ferrer and Lucia Margarita Lopez**

Chapter 7

Additionally, the Court deems the absence of opposition to be consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to GRANT the motion, APPROVING the compromise.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Rene Antonio Ferrer

Represented By
Christopher J Lauria

Joint Debtor(s):

Lucia Margarita Lopez

Represented By
Christopher J Lauria

Movant(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Stephen Reider

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Stephen Reider

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2:00 PM

6:19-15677 Bruce Vermille Anderson

Chapter 7

Adv#: 6:19-01129 Roche v. Anderson

#13.00 Status Conference RE: [1] Adversary case 6:19-ap-01129. Complaint by Kevin Michael Roche against Bruce Vermille Anderson . (62 (Dischargeability - 523(a) (2), false pretenses, false representation, actual fraud))

EH__

Docket 1

***** VACATED *** REASON: ALIAS SUMMONS ISSUED - STATUS
CONFERENCE CONTINUED TO 1/15/20 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Vermille Anderson Pro Se

Defendant(s):

Bruce Vermille Anderson Pro Se

Plaintiff(s):

Kevin Michael Roche Pro Se

Trustee(s):

Howard B Grobstein (TR) Pro Se

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6:18-17820 Maria Fabiola Marroquin

Chapter 7

Adv#: 6:19-01131 Anderson v. Marroquin, Jr.

#14.00 Status Conference RE: [1] Adversary case 6:19-ap-01131. Complaint by Karl T. Anderson against Roderico Marroquin Jr.. (Charge To Estate \$350.00).
Complaint for: (1) Avoidance and Recovery of Constrictive Fraudulent Transfers; (2) Avoidance and Recovery of Intentional Fraudulent Transfers; (3) Avoidance and Recovery of Property of the Bankruptcy Estate; and (4) Temporary Restraining Order and Preliminary Injunction Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)) (Eastmond, Thomas)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria Fabiola Marroquin

Represented By
Mark A Mellor

Defendant(s):

Roderico Marroquin Jr.

Represented By
Alec L Harshey

Plaintiff(s):

Karl T. Anderson

Represented By
Thomas J Eastmond
Robert P Goe

Trustee(s):

Karl T Anderson (TR)

Represented By
Robert P Goe
Thomas J Eastmond

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6:18-17663 Stephen Richard Morales

Chapter 7

Adv#: 6:18-01242 Forniss et al v. Morales et al

#15.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01242. Complaint by Steven John Forniss against Stephan Richard Morales, Diane Forniss Morales, Todd Turoci. 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)) (Firman, Fritz)

From: 3/6/19, 3/13/19, 5/22/19, 8/28/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Richard Morales

Represented By
Todd L Turoci

Defendant(s):

Stephan Richard Morales

Pro Se

Diane Forniss Morales

Pro Se

Joint Debtor(s):

Diane Forniss Morales

Represented By
Todd L Turoci

Plaintiff(s):

Stephen Forniss

Represented By
Fritz J Firman

Alfonso Forniss

Represented By

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CONT... Stephen Richard Morales

Fritz J Firman

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:17-17749 Joshua Cord Richardson

Chapter 7

Adv#: 6:19-01114 Sonnenfeld v. Diaz et al

#15.10 Motion for Default Judgment

Also #16

EH__

Docket 24

Tentative Ruling:

12/4/19

BACKGROUND

On September 15, 2017, Cleo Sonnenfeld ("Creditor") filed a Chapter 7 involuntary petition against Joshua Richardson ("Debtor"). On November 8, 2017, an order for relief was entered after Debtor stipulated to its entry. That same day, the Court entered an order approving a stipulation between Creditor, Debtor, and HLE Law Group ("HLE") which avoided a deed of trust recorded on June 20, 2017, in favor of HLE and against certain real property located at 13710 Oakley Dr., Moreno Valley, CA 92555 (the "Property").

On November 8, 2018, Trustee filed a motion to approve compromise; after two continuances, and the filing of a supplemental brief, the motion was granted pursuant to order entered January 3, 2019. The pertinent terms of the compromise are the following: (a) the Property is held in constructive trust for the benefit of Creditor, who holds a money judgment in the amount of \$318,778.12; (b) Trustee is to sell the Property; (c) the funds otherwise payable on account of the avoided HLE lien constitute property of the estate; (d) the bankruptcy estate shall receive 30% of all sale proceeds in excess of \$303,000 until such amount reaches \$25,000; (e) Creditor to file an objection to Debtor's homestead exemption; (f) avoidance actions are assigned to

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Creditor, with Creditor to receive 70% of any recovery and the bankruptcy estate to receive the remaining 30%. On February 6, 2019, Creditor objected to Debtor's claimed homestead exemption; the objection was sustained on March 1, 2019. On July 23, 2019, the Court entered an order directing turnover of the Property and, on July 29, 2019, the Court approved Trustee's proposed sale of the Property. On September 18, 2019, the Court approved a stipulation between Trustee and Creditor relating to disbursement of the sale proceeds.

On August 9, 2019, Creditor filed a complaint against Gabriela Nieto Diaz and Laguna Motors, Inc. (collectively "Defendants"; individually "Diaz" and "Laguna Motors") for (1) avoidance, recovery, and preservation of preferential transfer; (2) avoidance of intentional fraudulent transfer; (3) avoidance and recovery of fraudulent transfer; and (4) recovery and preservation of avoided intentional transfer, constructive fraudulent transfer, and preferential transfer. On October 18, 2019, default was entered against Defendants. On October 31, 2019, Creditor filed a motion for default judgment.

Creditor's complaint relates to a loan in the amount of \$200,900 received in September 2016 (the "Funds"). Creditor asserts that, on September 22, 2016, \$112,662.10 of the Funds were transferred to a bank account held by Diaz ("Transfer 1"), and that, on September 26, 2017, Diaz transferred \$82,000 to Laguna Motors ("Transfer 2").

DISCUSSION

A. Entry of Default

FED. R. CIV. P. Rule 55 states that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed. R. Civ. P. 55(a). Local Rule 7055-1 provides further requirements relating to a motion for entry of default judgment, and those

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CONT... **Joshua Cord Richardson**
requirements have been substantially satisfied here.

Chapter 7

B. Motion for Default Judgment

1. Proper Service of Summons and Complaint

FED. R. BANKR. P. Rule 7004(b)(1) states, in part:

[S]ervice may be made within the United States by first class mail postage prepaid as follows:

- (1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint to the individual's dwelling house or usual place of abode or to the place where the individual regularly conducts a business or profession.

It is not exactly clear where Creditor obtained the service addresses used when serving the motion for default judgment. The Court notes that Creditor has utilized three different addresses for both Diaz and Laguna Motors, addressing the later notice to the attention of an officer or agent for service of process.

2. Merits of Plaintiff's claim

Upon default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true. *TeleVideo Systems, Inc. v. Heidenthal*, 826

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F.2d 915, 917 (9th Cir. 1987); *see also Almog v. Golden Summit Investors Group, Ltd.*, 2012 WL 12867972 at *4 (C.D. Cal. 2012) ("When reviewing a motion for default judgment, the Court must accept the well-pleaded allegations of the complaint relating to liability as true.").

Here, the complaint includes four causes of action. A general problem with all four causes of action is that Creditor references \$194,662.10 in transfers, which appears to be simply the sum of Transfer 1 and Transfer 2— Transfer 1 from Debtor to Diaz, and Transfer 2 from Diaz to Laguna Motors. Creditor's attempt to add Transfer 1 and Transfer 2 appears to be an error – Transfer 2 was from Diaz to Laguna Motors, presumably using Loan Proceeds already transferred from Debtor to Diaz. Creditor appears to have realized this error when filing the motion for default judgment.

Regarding the first cause of action, the complaint appears to gloss over material legal issues. First, Creditor "alleges that Preferential Transfers occurred within a year prior to Debtor's Bankruptcy Case." This is clearly not true – Transfer 2 was made postpetition, and, as a result, is not within the scope of § 547. Additionally, Creditor alleges that Defendants were insiders as defined by 11 U.S.C. § 101(31) due to their "sufficiently close relationship with Debtor," yet Creditor has not provided the Court with any factual allegations sufficient to support that conclusion.

Regarding avoidance of fraudulent transfer, the second and third claims for relief cite 11 U.S.C. §§ 544(b) & 548 and CAL. CIV. CODE §§ 3439.04 and 3439.05. Section 544(b) states that a trustee may avoid a transfer of an interest of the debtor that is voidable under applicable law. CAL. CODE CIV. P. § 3439.05 provides that a transfer is voidable as to a creditor whose claim arose before the transfer if the debtor did not receive reasonably equivalent value and the debtor was or became insolvent as a result of the transfer. Trustee's complaint sufficiently alleges that Debtor did not receive reasonably equivalent value for Transfer 1, that Debtor was insolvent as a result of Transfer 2, and that there is a creditor whose claim arose before the transfer.

Regarding the fourth claim for relief, recovery of the avoidable transfer, 11 U.S.C. § 550 provides that transfers avoided under §§ 544 and 548 are recoverable from the

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CONT... Joshua Cord Richardson

Chapter 7

initial transferee or from "any immediate or mediate transferee of such initial transfer." Here, Creditor has adequately alleged that Diaz was the initial transferee of Transfer 1.

3. Amount of Damages

Here, Creditor's motion for default judgment has reduced the requested damages to \$112,662.10, and Debtor has provided a copy of a wire transfer establishing this amount.

TENTATIVE RULING

The Court is inclined to GRANT the motion with respect to the Second through Fourth causes of action, as modified in the proposed judgment attached as Exhibit 6 to the motion (which reduces the amount requested to \$112, 662.10), and DENY the motion with respect to the First Cause of Action.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Defendant(s):

Gabriela Nieto Diaz

Pro Se

Laguna Motors, Inc.

Pro Se

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CONT... Joshua Cord Richardson

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Movant(s):

Cleo Sonnenfeld

Represented By
Laila Masud
D Edward Hays

Plaintiff(s):

Cleo Sonnenfeld

Represented By
Laila Masud
D Edward Hays

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

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6:17-17749 Joshua Cord Richardson

Chapter 7

Adv#: 6:19-01114 Sonnenfeld v. Diaz et al

#16.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01114. Complaint by Cleo Sonnenfeld against Gabriela Nieto Diaz, Laguna Motors, Inc.. Recovery, and Preservation of Preferential Transfer; (2) Avoidance, Recovery, and Preservation of Constructive Fraudulent Transfer; and (3) Avoidance, Recovery, and Preservation of Actual Fraudulent Transfer [11 U.S.C. Sections 544, 547, 548, 550 and 551; Cal. Civ. Code Sections 3439.04, 3439.05] (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (14 (Recovery of money/property - other)),(12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Hays, D)

From: 10/16/19

Also #15.1

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Cord Richardson

Represented By
Amid Bahadori

Defendant(s):

Gabriela Nieto Diaz

Pro Se

Laguna Motors, Inc.

Pro Se

Plaintiff(s):

Cleo Sonnenfeld

Represented By
Laila Masud

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CONT... Joshua Cord Richardson

Chapter 7

D Edward Hays

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A Friedman

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6:16-15813 John E. Tackett

Chapter 7

Adv#: 6:18-01138 Speier v. Conestoga Settlement Services, LLC et al

#17.00 CONT Motion for Default Judgment Under LBR 7055-1, Memorandum of Points and Authorities in Support of Motion for Entry of Default Judgment Against **Defendant Michael Woods**

From: 11/20/19

EH__

Docket 77

Tentative Ruling:

11/20/19

BACKGROUND

On June 29, 2016, John E. Tackett and Ellen O. Tackett (collectively "Debtors") filed a Chapter 7 voluntary petition. As part of their petition, Debtors were appointed Steven M. Speier, their ("Trustee"). The Trustee filed an adversary proceeding against Conestoga Settlement Services, LLC, a Delaware Corporation, et al (collectively "Defendants"), including Michael Woods ("Woods") and Jeff Converse ("Converse"), roughly two years later, June 20, 2018.

Debtors' claim against Defendants arose from an allegedly unsuited investment. In 2012, Ellen O. Tackett ("Mrs. Tackett") inherited an interest in property located at 716 Bayonne Street, El Segundo, California (the "Property"), along with her sibling, Evelyn. Evelyn paid Mrs. Tackett, through a loan, \$300,000 for her interest. \$50,000 of the payment went to Debtors' debts, home repairs, and other miscellaneous expenses, leaving \$250,000.

In April 2012, Debtors meet Converse in Las Vegas at a weekend-long Amway convention. Debtors were acquainted with Converse from prior Amway related interactions. A conversation developed amongst the parties. Converse brought-up an opportunity to invest in life settlements with John Tackett ("Mr. Tackett").

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CONT...

John E. Tackett

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Converse and Mr. Tackett agreed to continue the conversation at a later date.

Later in the month, Converse met Debtors at a Panera Bread in Riverside, California. During the meeting, Converse stated he was a selling agent for Conestoga Settlement Services, LLC, ("Conestoga") and discussed Conestoga's life settlement investment opportunities:

"[I]n a life settlement contract, the beneficiary under a life insurance policy sells his or her interest to a third party, who in turns becomes the beneficiary who will receive the insurance benefit when the insured dies. The purchaser effectively wagers that the insured will die soon enough that the total of the cash paid to acquire the policy, plus the premiums that must be paid to keep the policy in force, will be less than the ultimate death benefit, yielding a positive return." (Ellen O. Tackett Decl., ¶6; John E. Tackett Decl., ¶4.)

Converse stated several Amway Diamonds—Amway distributors who had achieved a certain level of success—were making life settlement investments. Converse then mentioned Woods, an Amway Diamond who resided in Texas, with whom Debtors were familiar with, was involved with Conestoga. Converse did qualify this investment opportunity by stating that it may not be suitable for Debtors and he would have to talk to his supervisors about their participation.

After two to five days later, Converse called the Debtors and informed them that they were qualified and approved by his "supervisors." Another meeting took place in late April or early May. At this meeting, Converse stated that his "supervisors" would prefer that Debtors invest \$250,000 that Mrs. Tackett's received for her interest in the inherited Property. Debtors did not state how Converse was aware of such funds being available to them.

A third meeting was arranged. At this meeting, Debtors had questions about information presented to them in the prior meeting. Converse explained that the investment would be for the purchase of a percentage of each policy, and a portion of the fund would be held in a reserve account in case the insured outlived his or her life expectancy dates.

Converse stated that there was approximately five years of premium

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John E. Tackett

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monies that would be held in an escrow amount on each policy. After the insured passed away, Converse told Debtors the money in the escrow account would be returned to them or reinvested into other policies.

Another meeting was arranged for Debtors to sign the contract ("Life Settlement Agreement") and purchase interest in the life policies. When Converse arrived, he told the Debtors that he was rushing because he had booked another meeting too close in time with that of Debtors. Without thoroughly reviewing the Life Settlement Agreement, Debtors signed parts of the contract that were tagged in advance by Converse or another party and deposited \$30,000 to Converse.

The contract indicated that Debtors became fractional owners of eight policies with premium ranging from 75 to 85.5 months. Since Converse stated that life expectancies for the insured were less than 55 months, Debtors were at ease with this margin. A fifth meeting took place where Debtors deposited \$220,000 with Converse.

In 2013, Mr. Tackett, employed as a probation officer, was injured in a ground defense training class. The injury, unfortunately serious, drastically reduced his ability to work. Mrs. Tackett, the sole caretaker of Mr. Tackett, was unable to substitute Mr. Tackett's income. This led to Debtors filing for bankruptcy.

On January 16, 2017, Conestoga sent Debtors a notice, informing them that money in the reserve account had been depleted. Pursuant to the Life Settlement Agreement, for Debtors to maintain their interest in their life policies, they would have to contribute their pro-rate share of the premiums due. On February 13, 2017, Trustee's counsel, being aware of this notice, notified Conestoga, through a letter, of the automatic stay and the consequences of violating it.

On February 20, 2017, Conestoga's counsel communicated he had received the notice and proposed to buy Debtors' interest. Unfortunately, the parties were unable to negotiate a settlement.

Since the initial notice given to Debtors about the premium call, eight of the nine policies, the insured had outlived his or her life expectancy. However, Debtors believe that the premium calls were premature. After reviewing the Life Settlement Agreement, Debtors, because Woods name appeared at the top of the coverage page under "Independent Contractor," believe Woods is the supervisor Converse alluded to. Trustee now files a motion asking for the court to grant a default judgment against

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Woods.

Chapter 7

PROCEDURAL HISTORY

Trustee filed an adversary proceeding against Defendants on June 20, 2018, which was timely served. Defendants had until July 20, 2018 to file and serve a written response to the Trustee's complaint. Defendants filed a response, asking for the court to dismiss the case, on July 30, 2019.

Trustee then filed a request for the clerk to enter a default judgment due to the untimely response of the Defendants. The clerk obliged, entering a default judgment against Defendants on August 8, 2018. Conestoga Settlement Services, LLC; Conestoga International, LLC; and Conestoga Trust (collectively, "Conestoga Entities") disputed that the service was proper. On September 7, 2018, Trustee and Conestoga Entities agreed that the Trustee would set aside the default judgment if they accept service as proper. The stipulation agreement was granted, and Conestoga Entities had until September 28, 2018 to file their response.

Conestoga Entities filed an answer to the complaint on October 1, 2018 and asked for extending time to respond to the complaint. The motion was granted on October 12, 2018. Conestoga Entities did not file another answer. Roughly a year later, Trustee filed this motion, requesting a default judgment against Woods.

DISCUSSION

A. Entry of Default

FED. R. CIV. P. Rule 55 states that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default." Fed. R. Civ. P. 55(a). Local Rule 7055-1 provides further requirements relating to a motion for entry of default judgment, and those

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requirements have been substantially satisfied here.

B. Motion for Default Judgment

I. Proper Service of Summons and Complaint

FED. R. BANKR. P. Rule 7004(b)(1) states, in part:

[S]ervice may be made within the United States by first class mail postage prepaid as follows..

- (1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint to the individual's dwelling house or usual place of abode or to the place where the individual regularly conducts a business or profession.

Here, it appears that the motion for default judgment has been properly served.

II. Complaint as True

Upon default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true. *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987); *see also Almog v. Golden Summit Investors Group, Ltd.*, 2012 WL 12867972 at *4 (C.D. Cal. 2012) (stating that when reviewing a motion for default judgment, the Court must accept the well-pleaded allegations of the complaint relating to liability as true.).

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C. Jurisdiction

I. Subject Matter Jurisdiction

This Court has subject matter jurisdiction pursuant to U.S.C §157(b)(1)—Bankruptcy Judges may hear and determine all cases under title 11 and all core proceedings arising under title 11—and 28 U.S.C. §1334. Trustee has asserted a claim arising under title 11, a Chapter 7 voluntary petition, and the matter concerns the administration of an estate. U.S.C §157(b)(2)(A).

II. Venue

Venue is proper pursuant to 28 U.S.C. §1409(a):

"Except as otherwise provided in subsections (b) and (d), a proceeding arising under title 11 or arising in or related to a case under title 11 may be commenced in the district court in which such case is pending."

Debtors' lead bankruptcy case (16-15813) is currently pending in this Court.

III. Personal Jurisdiction

Personal Jurisdiction of an out-of-state defendant is appropriate if the relevant state's long arm-statue permits the assertion of jurisdiction without violating federal due process. *Schwarzenegger v. Fred Martin Motor Co.* 374, F.3d 797, 800 (9th Cir. 2004). Due process requires that non-residents have certain "minimum contacts" with

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the forum state. *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945).

In California the Ninth Circuit has articulated a three-prong test:

- (1) the non-resident defendant must purposefully direct his activities or consummate some transaction in the forum or resident thereof, or perform some act by which it purposeful avails itself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of forum's laws;
- (2) the claim must be one which arises out of or relates to the defendant's forum-related activities; and
- (3) the exercise of jurisdiction must comport with the fair play and substantial justice. *Lake v. Lake*, 817 F.2d 1416, 1421 (9th Cir. 1987).

a. Purposeful Direction

To determine if the first prong is satisfied, because the Trustee alleges fraud, a purposeful direction analysis must be used. *Schwarzenegger*, 374 F.3d at 802 (stating that purposeful direction analysis is used in tort-related claims). A three part-test is utilized in the purposeful analysis—the Calder-effects test. *Calder v. Jones*, 465 U.S. 783 (1984). Under this test, the defendant allegedly must have (1) committed an intentional act, (2) expressly aimed at the forum state, and (3) causing harm that the defendant know is likely to be suffered in the forum state. *Id.*

Accepting all the allegations as true in the Trustee complaint, the Court finds that Woods, involved with Conestoga in some manner, with Converse, defrauded Californians into purchasing investments unsuitable for them.

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b. Forum Related Activities

The second prong requires that the Trustee's claim shows that Debtors would not have been injured "but for" the defendant's forum-related conduct. *Myers v. Bennet Law Offices*, 238 F.3d 1068, 1075 (9th Cir. 2001). Trustee claims that Debtors would not have suffered injury but for Converse's conduct, who is believed to be an agent of Woods.

c. Reasonableness

The third prong requires that the court consider seven factors:

- (1) The extent of defendant's purposeful interjection;
- (2) the burden on defendant in defending in the forum;
- (3) the extent of conflict with the sovereignty of defendant's state;
- (4) the forum state's interest in adjudicating the suit;
- (5) the most efficient judicial resolution of the controversy;
- (6) the importance of the forum to the plaintiff's interest in convenient and effective relief; and
- (7) the existence of an alternative forum. *Core-Vent Corp. v. Nobel Indust. AB*, 11 F.3d 1482, 1487 (9th Cir. 1993).

In engaging in this analysis, no one factor is dispositive. *Id.* at 1488. With respect to the first factor, Trustee has shown that Woods had intentional and continuous contact with California. Woods was listed as an "Independent Contractor" on the Life Settlement Agreement's coverage page. (John E. Tackett Decl. ¶15). Woods was associated with Conestoga, which was selling securities in the State of California.

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As to the second factor, there is nothing in the record or that the Court can see that indicating that it would be inconvenient for Woods to litigate this lawsuit in California.

Looking at the third factor, Trustee claims arise under federal law and California Law. Thus, there is no potential conflict with another state's law or regulation. Thus, this weighs in favor of the Trustee.

Trustee is headquartered in California, and Debtors are residence of California. Californian courts, including this Court, have a strong interest in protecting California citizens and domestic businesses from the wrongful acts of a non-resident defendant.

As to the fifth factor, most of the evidence and witnesses are based in Riverside, California. Converse met with Debtors multiple times at a Panera Bread in Riverside, where the contract was signed.

Turning to the sixth factor, while it may not be as convenient for the Trustee to litigate this matter outside of California, there is nothing in the record suggesting that convenient and effective relief is unavailable in a different forum. Thus, this factor is neutral.

Evaluating the seventh factor, the Court finds that this factor is neutral for the same reasons stated above. Thus, taking all the foregoing factors into consideration, the Court finds that personal jurisdiction over Woods in this action is appropriate.

D. Analysis of Judgment by Default

To obtain a default judgment, a two-step process is required: "(1) entry of party's default (normally by the clerk), and (2) entry of a default judgment[, which can be given by the Clerk if the sum is certain or by the Court in all other cases]". *In re McGee*, 359 B.R. 765 (B.A.P. 9th Cir. 2006). The Trustee has admitted that the sum in this claim is certain, so such an entry of default by the Clerk could be appropriate. However, this motion has provided additional support for the calculation of damages.

The complaint includes fraud, negligent misrepresentation, violation of securities

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qualification requirements, and misrepresentation in the sale of securities. The Trustee asks to be awarded interest and punitive damages as well as the full invested amount, \$250,000. Before the Court can address the Trustee claims, it must determine if the pleadings support a finding of a principal-agent relationship between Woods and Converse since all the claims against Woods are based on the allegation that Converse is the agent of Woods

I. Agent

A principal-agent relationship can be created by one of two ways:

- (1) actual authority—"an agent acts with actual authority when, at the time of taking action that has legal consequences for the principal, the agent reasonable believes, in accordance with the principal's manifestations to the agent, that the principal wishes the agent so to act—or
- (2) apparent authority—"the power held by an agent...to affect a principal's legal relationship with third parties when a third party reasonably believes the actor has authority to act on behalf and that belief is traceable to the principal's manifestation. Restatement (Third) of Agency §§ 2.01 and 2.03.

Because there is no declaration provided by Converse, the pleading does not provide support for actual authority. Nor does the complaint allege sufficient facts to establish an agency relationship.

However, there may be evidence of apparent authority. "Apparent authority 'must be established by proof of something said or done by the principal on which [a third part] reasonably relied'; it 'cannot be established merely by showing that [the purported agent] claimed authority or purported to exercise it.'" *Pascal v. Agentra, LLC*, 2019 U.S. Dist. Lexis 179359, *10 (Cal. Dist. Ct. App. 2019) (quoting *Nat'l Labor Relations Bd. v. Dist. Counsel of Iron Works*, 124 F.3d 1094, 1099 (9th Cir. 1997)).

Examples of an establishment of apparent authority would be the "principal's direct statement to the third party, directions to the agent to tell something to the third person, or the granting of permission to the agent to perform acts and conduct negotiations under circumstances which create in him a reputation of authority in the area which the agent acts and negotiates." *Id.* No evidence of this kind was presented in the pleading. Thus, the Trustee does not plead sufficient facts to support an apparent authority that Woods is vicariously liable for the acts purportedly perpetrated

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Furthermore, evidence of ratification is also not present in the pleading. Ratification is "the affirmance of a prior act done by another, whereby the act is given effect as if done by an agent acting with actual authority. *Kristensen v. Credit Payment Serv.*, 879 F.3d 1010, 1014 (9th Cir. 2018). A principal can be found liable when he or she ratifies an originally unauthorized tort. *Id.*

However, here the Debtors' declaration simply reflects that Woods' name appears on the cover page of the Life Settlement Agreement under "Independent Contractor Name." Nothing in the claim establishes such proof of a principal-agent relationship nor ratification of the agents authorized conduct.

TENTATIVE RULING

Thus, the Court is inclined to DENY the motion for default judgment.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

John E. Tackett

Represented By
Stefan R Pancer

Defendant(s):

Conestoga Settlement Services, LLC

Represented By
Charles Miller

Conestoga International Holdings,

Represented By
Charles Miller

Conestoga Trust

Represented By
Charles Miller

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Provident Trust Group, LLC

Represented By
Marshall J Hogan

De Leon & Washburh, P.C.

Represented By
Jasmin Yang
David D Samani

Thomas Washburn

Represented By
Jasmin Yang
David D Samani

Hector De Leon

Represented By
Jasmin Yang
David D Samani

Jeff Converse

Pro Se

Michael Woods

Pro Se

Michael McDermott

Pro Se

Joint Debtor(s):

Ellen O. Tackett

Represented By
Stefan R Pancer

Movant(s):

Steven M Speier

Represented By
Thomas J Eastmond
Robert P Goe

Plaintiff(s):

Steven M Speier

Represented By
Thomas J Eastmond
Robert P Goe

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Thomas J Eastmond

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6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#18.00 CONT Order to show cause why claim objections should not be overruled or sanctions issues for failure to prosecute the matter

From: 11/13/19

Also #19 & #20

EH__

Docket 94

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#19.00 Order to show cause why Edward Weber and Kristi Wells should not be held in contempt for failure to comply with this court's order to show cause

Also #18 & #20

EH__

Docket 107

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#20.00 CONT Motion RE: Objection to Claim Number 11 by Claimant Natasha Reynoso and Mark Reynoso
HOLDING DATE

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18, 2/6/19, 4/17/19, 8/21/19, 11/13/19

Also #18 & #19

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Movant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#21.00 Order to show cause why Michael Hemming should not be held in contempt of court for failure to comply with this court's order to show cause

Also #22 & #23

EH__

Docket 177

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#22.00 CONT Order to appear and show cause why case should not be dismissed or sanctions issued for failure to prosecute the matter

From: 11/13/19

Also #21 & #23

EH__

Docket 167

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

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Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#23.00 CONT Status Conference RE: [13] Amended Complaint by Michael J Hemming on behalf of Mark & Natasha Reynoso against Anne Louise Goodman, Douglas Edward Goodman. (RE: related document(s)1 Adversary case 6:16-ap-01277. Complaint by Mark & Natasha Reynoso against Douglas Edward Goodman, Anne Louise Goodman. false pretenses, false representation, actual fraud) filed by Plaintiff Mark & Natasha Reynoso)
(Holding Date)

From: 5/4/17, 8/24/17, 8/31/17, 9/14/17, 11/9/17, 12/20/17, 2/28/18, 7/11/18, 10/24/18, 12/19/18, 2/6/19, 4/17/19, 8/21/19, 10/16/19, 11/13/19

Also #21 & #22

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By

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Edward T Weber

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Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

#24.00 Motion for Reconsideration of Memorandum Decision Granting In Part and Denying In Part Motion for Summary Adjudication on Remand

EH__

Docket 330

Tentative Ruling:

12/4/2019

BACKGROUND

On April 18, 2013, Narinder Sangha ("Defendant") filed a Chapter 7 voluntary petition. On April 25, 2013, Charles Schrader ("Plaintiff") filed an adversary complaint against Defendant for non-dischargeability pursuant to 11 U.S.C. § 523(a) (6).

On August 12, 2013, the Court entered its first scheduling order, directing the parties to complete mediation by October 16, 2013; that deadline was ultimately continued to October 29, 2013. On December 4, 2013, the Court entered a second scheduling order, directing the parties to complete mediation by January 31, 2014.

On August 7, 2014, the Court entered an order granting Plaintiff's motion for summary judgment, and a corresponding judgment. This judgment was appealed, ultimately being vacated and remanded by the Ninth Circuit on March 10, 2017. On April 19, 2017, Plaintiff filed a renewed motion for summary judgment which, after several continuances, was ultimately granted in part and denied in part on March 15, 2019 (the "Opinion").

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Since the Court issued the Opinion granting partial summary judgment to Plaintiff, the parties have engaged in several discovery disputes, with Defendant switching counsel on multiple occasions during the course of the case. On May 3, 2019, Defendant filed a motion to reopen discovery. As noted by the Court on the hearing of May 22, 2019, the Court had never actually set a discovery deadline, and, therefore, the Court denied the motion. Based upon the discussion with parties at the hearings of May 22, 2019, the Court entered a scheduling order on May 24, 2019. The scheduling order set a discovery deadline of July 31, 2019, and a deadline to file dispositive motions of August 23, 2019.

On July 10, 2019, the Court heard Defendant's (then *pro se*) motion to serve additional discovery requests. That motion was denied for the reasons stated on the record at the hearing of July 10, 2019.

On July 30, 2019, Defendant filed a motion to extend discovery cutoff and related dates. On September 3, 2019, the Court granted Defendant's motion to extend the discovery cutoff to the limited extent of clarifying that discovery need only be propounded, not completed, by July 31, 2019. On October 16, 2019, Defendant filed a motion for sanctions against Plaintiff, which the Court ultimately denied.

On October 28, 2019, Defendant filed a motion to reconsider the Opinion, arguing that: (1) the underlying 2011 state court judgment was void for failure to properly plead damages; (2) issue preclusion was inappropriate because certain affirmative defenses were neither actually litigated nor necessarily decided; and (3) public policy is not served by application of issue preclusion. On November 12, 2019, Plaintiff filed his opposition. On November 27, 2019, Defendant filed his reply. In the reply, Defendant concedes that Plaintiff's argument, that the 2011 state court judgment was not void, is correct, and thus withdrew that argument. Defendant also withdrew his third argument to the extent it "was based on the argument that Judgment was void."

DISCUSSION

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As a preliminary matter, the Court addresses Plaintiff's argument that the instant motion was untimely for failure to comply with this Court's scheduling order. The Court's scheduling order entered May 24, 2019, states that the last day for pre-trial motions to be filed and served is August 23, 2019. Plaintiff, characterizing the instant motion as a pre-trial motion, argues that the motion is untimely pursuant to the Court's scheduling order. Defendant argues that the instant motion is not a pre-trial motion, and, as such, is not untimely pursuant to the Court's scheduling order.

The Court agrees with Defendant's definition of the term pre-trial motion. The instant motion, as a motion which seeks reconsideration of an already entered order or judgment, is more properly characterized as a post-trial (or post-hearing) motion. While the motion, if granted, would affect the scope of the future trial, its direct aim, modifying a previous Court order, is not within the scope of the Court's form scheduling order.

Turning to the legal arguments raised, FED. R. CIV. P. Rule 60(b)(1), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, states:

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect

As noted by Defendant, the Ninth Circuit has previously held that errors of law fit within the scope of FED. R. CIV. P. Rule 60(b)(1). *See, e.g., Kingvision Pay-Per-View Ltd. v. Lake Alice Bar*, 168 F.3d 347, 350 ("Because the words 'mistake' and 'inadvertence' are not so limited, they may include mistake and inadvertence by the judge."). The Ninth Circuit's conclusion, however, is not universally accepted across circuits. *See, e.g., Silk v. Sandoval*, 435 F.2d 1266 (1st Cir. 1971); *Swam v. United States*, 327 F.2d 431 (7th Cir. 1964) (both concluding that judicial legal error does not

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fit within the scope of Rule 60(b)(1)).

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The Sixth Circuit previously wrote the following in discussing the split of authority regarding whether judicial legal error falls within the scope of Rule 60(b)(1):

We need not choose between these conflicting views at this time. This is so because, regardless of whether we determine legal error comes within Rule 60(b)(1), the vast majority of courts that have concluded that legal error comes within the meaning of Rule 60(b)(1) have also determined that, in using the rule in this manner, the moving party must make his or her motion within the time limits for appeal. A motion under Rule 60(b) cannot be used to avoid the consequences of a party's decision to settle the litigation or to forego an appeal from an adverse ruling. Generally speaking a party who makes an informed choice as to a particular course of action will not be relieved of the consequences when it subsequently develops that the choice was unfortunate.

Steinhoff v. Harris, 698 F.2d 270, 275 (6th Cir. 1983) (quotations omitted) (citing *Sampson v. Radio Corp. of Am.*, 434 F.2d 315 (2nd Cir. 1970); *Hoffman v. Celebrezze*, 405 F.2d 833 (8th Cir. 1969); *Gila River Ranch, Inc. v. United States*, 368 F.2d 354 (9th Cir. 1966); *Schildhaus v. Moe*, 335 F.2d 529 (2nd Cir. 1964); 7 MOORE, *Federal Practice* ¶ 60.22[2], [3] (2nd ed. 1948 & Supp. 1981); see also *Hill v. McDermott, Inc.*, 827 F.2d 1040 (5th Cir. 1987).

As noted in the block quotation above, the Ninth Circuit previously stated, in *Gila River Ranch, Inc. v. United States*, 368 F.2d 354, 357 (9th Cir. 1966), that "under Rule 60(b)(1) the trial judge can, within a reasonable time not exceeding the time for appeal, hold a rehearing and change his decision." The *Gila River Ranch* decision has not been overturned. In 2005, the Ninth Circuit reaffirmed the validity of the *Gila River Ranch* holding:

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Rule 60(b) authorizes relief from judgments for "mistake, inadvertence, surprise, or excusable neglect." The "mistakes" of judges may be remedied under this provision, which also encompasses mistakes in the application of the law. A trial judge may, within a reasonable time, *but not exceeding the time for appeal*, hold a rehearing under Rule 60(b) and change the award.

...

To be timely, Phonometrics' Rule 60 motion must have been filed within the 30-day window following the entry of the judgment awarding attorneys' fees.

Phonometrics, Inc. v. Hospitality Franchise Sys., Inc., 2005 WL 663414 at *1 (9th Cir. 2005) (citations omitted) (emphasis in original).

Therefore, pursuant to the caselaw cited above, Defendant's Rule 60(b)(1) motion premised upon judicial legal error is untimely as having been filed more than seven months after the Opinion was entered.

Tentative Ruling:

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

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Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Charity J Manee

Movant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Charity J Manee

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:13-29922 Nancy Ann Howell

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Adv#: 6:14-01070 Law Office of Andrew S. Bisom et al v. Howell

#25.00 Motion For Leave To Amend Defendant's Opposition To Plaintiffs' Motion For Summary Judgment Etc

Also #26

EH__

Docket 195

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nancy Ann Howell	Pro Se
------------------	--------

Defendant(s):

Nancy Ann Howell	Pro Se
------------------	--------

Movant(s):

Nancy Ann Howell	Pro Se
------------------	--------

Plaintiff(s):

Law Office of Andrew S. Bisom	Represented By Andrew S Bisom
-------------------------------	----------------------------------

Eisenberg Law Firm, APC	Represented By Andrew S Bisom
-------------------------	----------------------------------

Trustee(s):

Steven M Speier (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 4, 2019

Hearing Room 303

2:00 PM

6:13-29922 Nancy Ann Howell

Chapter 7

Adv#: 6:14-01070 Law Office of Andrew S. Bisom et al v. Howell

#26.00 Motion to strike Request For Judicial Notice

Also #25

EH__

Docket 201

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nancy Ann Howell Pro Se

Defendant(s):

Nancy Ann Howell Pro Se

Movant(s):

Law Office of Andrew S. Bisom Represented By
Andrew S Bisom

Plaintiff(s):

Law Office of Andrew S. Bisom Represented By
Andrew S Bisom

Eisenberg Law Firm, APC Represented By
Andrew S Bisom

Trustee(s):

Steven M Speier (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:16-18182 Douglas Edward Goodman

Chapter 13

Adv#: 6:16-01277 Reynoso v. Goodman et al

#1.00 Motion for Authority to Compromise with Theresa Mann

EH__

Docket 172

Tentative Ruling:

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Defendant(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Anne Louise Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Movant(s):

Douglas Edward Goodman

Pro Se

Anne Louise Goodman

Pro Se

Douglas Edward Goodman

Pro Se

Anne Louise Goodman

Pro Se

Douglas Edward Goodman

Pro Se

Anne Louise Goodman

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

CONT... Douglas Edward Goodman

Chapter 13

Anne Louise Goodman

Represented By
Edward T Weber
Andrew L Leff

Anne Louise Goodman

Pro Se

Douglas Edward Goodman

Pro Se

Anne Louise Goodman

Represented By
Edward T Weber

Douglas Edward Goodman

Represented By
Edward T Weber

Douglas Edward Goodman

Represented By
Edward T Weber

Plaintiff(s):

Mark & Natasha Reynoso

Represented By
Michael J Hemming

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:16-18182 Douglas Edward Goodman and Anne Louise Goodman

Chapter 13

#2.00 Trustee's Motion to Dismiss Case

EH__

Docket 98

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Edward Goodman

Represented By
Edward T Weber

Joint Debtor(s):

Anne Louise Goodman

Represented By
Edward T Weber

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:16-18082 Joseph John Vargas and Lydia Vargas

Chapter 13

#3.00 Motion to vacate dismissal and Reinstate Chapter 13 Case

EH__

Docket 164

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph John Vargas

Represented By
Dana Travis

Joint Debtor(s):

Lydia Vargas

Represented By
Dana Travis

Movant(s):

Joseph John Vargas

Represented By
Dana Travis

Lydia Vargas

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#4.00 CONT Motion to Disallow Claim No. 3 filed by Lake Hills Maintenance Corporation

From: 9/19/19, 10/17/19

Also #5 & #5.1

EH__

Docket 51

*** VACATED *** REASON: CONTINUED TO 12/18/19 AT 11:00 AM

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Movant(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

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

From: 9/19/19, 10/17/19

Also

EH__

Docket 53

***** VACATED *** REASON: CONTINUED TO 12/18/19 AT 11:00 AM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Movant(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#5.10 CONT Trustee's Motion to Dismiss Case

From: 9/5/19, 10/3/19, 10/17/19

Also #4 & #5

EH__

Docket 48

***** VACATED *** REASON: CONTINUED TO 12/18/19 AT 11:00 AM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-19284 Kervin Rayal Routt

Chapter 13

#6.00 Motion By United States Trustee to Dismiss Chapter 13 Case With A Re-filing Bar

EH__

Docket 8

Tentative Ruling:

12/5/19

BACKGROUND

On October 22, 2019 ("Petition Date"), Kervin Rayal Routt ("Debtor") filed a Chapter 13 voluntary petition. Debtor's petition lacked numerous documents which were required by Local Bankr. Rule 1007 and 3015(b). The Clerk of Court lodged an order-to-comply and notice-of-intent-to-dismiss on October 22, 2019, giving Debtor fourteen days to submit said documents. (Dkt No. 1).

On November 5, 2019, the deadline to submit the required documents had passed, and Debtor had not submitted a single document that was asked for by the Clerk of Court. On November 8, 2019, the United State Trustee ("UST") requested the Court to dismiss the case with a re-filing bar of one year due to Debtor's bad-faith filing.

Prior to the filing of this Chapter 13 voluntary petition, Debtor had filed two other Chapter 13 voluntary petitions within this year, case numbers 19-13034 and 19-11106. One of the prior cases the Debtor represented himself pro se and the other prior case he was represented by Counsel. No matter who did the representation, both prior cases were dismissed because Debtor failed to file all case commencement documents.

UST alleges, under the totality of circumstances, the Debtor's conduct is sufficient to warrant a finding of bad faith: (1) debtor has filed multiple cases within a one-year period, (2) Debtor did not file all case commencement documents in this petition, and (3) Debtor failed to disclose his prior cases. (Dkt No. 8, Pg. 6).

Furthermore, UST states that the absence of other creditors together with Debtor's incomplete filing has hindered the ability of all creditors to enforce their rights.

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Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

CONT... **Kervin Rayal Routt**

Chapter 13

Id. at 7 Thus, UST states, the dismissal of this petition would enable creditors to pursue their non-bankruptcy remedies—this is the best interest of creditors and the estate. *Id.*

DISCUSSION

Regarding UST's request to dismiss the case, 11 U.S.C. § 1307(c) provides a non-exhaustive list of grounds for dismissal of a Chapter 13 case. Sections 1307(c)(1), (3), (4), and (9) all provide grounds to dismiss a Chapter 13 case when the debtor files a skeletal petition and fails to take any further action to prosecute the case. Section 1307(c) instructs the Court, however, to consider whether dismissal or conversion is in the best interests of creditors.

Taking judicial notice of the schedules filed in Debtor's most recent case, 6:19-bk-19284-MH, no determination could be made if Debtor has unexempt assets which could provide a distribution to creditors. Nonetheless, UST believes a dismissal, instead of conversion, would be the best interest of creditors and the estate.

Assuming that dismissal is in the best interests of creditors and the estate, the Court notes that it empowered to impose a re-filing bar under 11 U.S.C. § 349(a). As COLLIER notes, courts' analysis of this section is somewhat confused due to confounding "dismissal with prejudice" with "dismissal with injunction against future filings." COLLIER ON BANKRUPTCY ¶ 349.02[3]; *compare In re Garcia*, 479 B.R. 488 (Bankr. N.D. Ind. 2012) (denying motion for dismissal with prejudice but imposing three-year re-filing bar) *with In re Craighead*, 377 B.R. 648 (Bankr. N.D. Cal. 2007) (appearing to equate dismissal with prejudice with an injunction against re-filing).

There is also a circuit split concerning whether an injunction on re-filing for more than 180 days is allowed under the Bankruptcy Code. *Compare In re Frieouf*, 938 F.2d 1099 (10th Cir. 1991) (180 days is maximum allowed length of re-filing injunction) *with Casse v. Key Bank Nat. Ass'n*, 198 F.3d 327 (2nd Cir. 1999) (injunction against filing for more than 180 days permissible). 11 U.S.C. § 349(a) reads:

Unless, the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(g) of this title.

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CONT... **Kervin Rayal Routt**

Chapter 13

The disagreement revolves around whether the qualifier "Unless, the court, for cause, orders otherwise" modifies the content after the semi-colon. *In re Leavitt* noted this disagreement, but since the court was dealing with a dismissal with prejudice, rather than an injunction against re-filing, it did not resolve the issue. 209 B.R. 935, 942 (9th Cir. B.A.P. 1997). Within the Ninth Circuit, it appears the trend is to adopt the reasoning of the Second Circuit and allow injunctions for more than 180 days, and the Court agrees with that reading of the statute. *See e.g. In re Velasques*, 2012 WL 8255582 at *3 (Bankr. E.D. Cal. 2012).

In this case, this petition is the Debtor's third filing in the previous twelve months in which Debtor filed an incomplete petition and failed to cure the deficiency. Furthermore, Debtor failed to disclose two previous filings in the voluntary petition, which is signed under penalty of perjury. For these reasons, the Court is inclined to find the requested one-year re-filing bar to be appropriate in the circumstances presented.

Moreover, Debtor's failure to oppose is deemed consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to GRANT the motion, finding the one-year re-filing bar to be appropriate in the circumstances presented.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Kervin Rayal Routt

Pro Se

Movant(s):

United States Trustee (RS)

Represented By

Abram Feuerstein esq

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

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11:00 AM

CONT... Kervin Rayal Routt

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-19106 David Cornelius Watson and Crystal Tamara Watson

Chapter 13

#7.00 Motion for Setting Property Value

EH__

Docket 21

Tentative Ruling:

12/5/19

Background:

On October 16, 2019 ("Petition Date"), David Cornelius Watson ("Debtor") and Crystal Tamara Watson (Joint Debtor) filed a voluntary Chapter 13 petition. Debtors owned a 2014 Ford Flex (the "Vehicle") located at 14313 Pioneer Way, Victorville, CA 9294 ("Debtors' Residence"). On the Petition Date, Debtors valued the Vehicle at \$15,014.00. *Official Form 106A/B 2*, ECF No. 1.

On November 7, 2019, Debtors filed a Motion to Value Collateral ("Motion"). Debtors allege, as of the Petition Date, a balance of \$20,388.00 was owed to Flagship Credit Acceptance ("Flagship"). *Debtors' Mot. for Order Determining Value of Collateral 4*, ECF No. 21. Debtor now requests the Court to value the Vehicle at \$14,575.00. Such value would require the Debtor to pay Flagship the secured amount \$14,575.00, instead of \$15,014.000, and leaving the remaining amount as unsecured, \$5,813.00. *Id.*

Debtors provided a copy of a NADA report in support of Debtor's assertion that as of the Petition Date, or close to it, November 6, 2019, the value of the Vehicle was \$14,575.00. Flagship has neither filed a proof of claim nor an objection to this motion.

Applicable Law:

A. Value of the Vehicle

11 U.S.C §506(a)(2):

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Judge Mark Houle, Presiding
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Thursday, December 5, 2019

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11:00 AM

CONT...

David Cornelius Watson and Crystal Tamara Watson

Chapter 13

If the Debtor is an individual in a case under Chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the *replacement value* of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, *replacement value* shall mean the price a *retail merchant* would charge for property of that kind considering the age and condition of the property at the time value is determined. [italicized for emphasis]"

In *In re Morales*, the United States Bankruptcy Court for the Central District of California determined that retail value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr. C.D. Cal. 2008).

According to the court in *Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales*, 387 B.R. at 46. The language of § 506(a)(2) provides further support for the use of retail values rather than private party values in the first sentence that states replacement value should be calculated "without deduction for costs of sale or marketing." § 506(a)(2); *Morales*, 387 B.R. at 46. Although "replacement value" is modified with respect to property acquired for personal use in the second sentence of § 506(a)(2), the rule regarding costs of sale or marketing is not modified and is therefore still applicable. § 506(a)(2); *Morales*, 387 B.R. at 46. Consequently, in contrast to private party values, "the retail value better approximates a price that includes the 'costs of sale and marketing,'" even if downward adjustments must be made to accommodate a less than excellent or optimal condition of a vehicle. *Morales*, 387 B.R. at 46.

Here, Debtors provided a NADA report in support of the assertion that the retail value of the Vehicle as of the Petition Date was \$14,575.00. Accordingly, the Court finds that Debtors have provided sufficient proof that the retail value of the Vehicle as of the Petition Date was that amount.

B. Secured Claim is Secured up to the Value of the Collateral.

Section 506(a) establishes that the portion of a secured claim that exceeds the value of the property securing the claim is unsecured. 11 U.S.C. § 506(a). Based on the

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CONT... David Cornelius Watson and Crystal Tamara Watson Chapter 13

evidence presented, the Court finds that the value of the Vehicle is \$14,575.00, and as such, the Flagship has a secured claim in the amount of \$14,575.00 for purposes of plan confirmation.

Moreover, Flagship has not opposed the Motion, which may be deemed as consent to the Court granting the Motion, per LBR 9013-1(h).

Tentative:

The Court is inclined to GRANT the Motion and value the Vehicle at \$14,575.00 for purposes of plan's confirmation only, a resulting unsecured claim of \$5,813.00.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

David Cornelius Watson

Represented By
Todd L Turoci

Joint Debtor(s):

Crystal Tamara Watson

Represented By
Todd L Turoci

Movant(s):

David Cornelius Watson

Represented By
Todd L Turoci

Crystal Tamara Watson

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-14828 Portia Wondaline Barmes

Chapter 13

#8.00 Motion to Disallow Claims 5,6 & 7

Also #9

EH__

Docket 27

Tentative Ruling:

12/5/19

BACKGROUND:

On June 3, 2019 ("Petition Date"), Portia Wondaline Barmes ("Debtor") filed for voluntary Chapter 13 petition. As part of the required documents to file the petition, Debtor submitted Official Form 106 E/F, which included unsecured claims. *Official Form 106 E/F* 1-5, ECF No. 1. Debtor listed Riverside Community Hospital ("RCU") as one of the unsecured creditors she owes. *Id.* The amount of the claim listed was \$80.00 ("Claim No. 1"). *Id.*

Debtor did not list any more claims for RCU. However, in the month of June 2019, RCU filed six proofs of claim. Debtor has filed this motion requesting that claims 5-1, 6-1, and 7-1 (collectively the "Disputed Claims") be disallowed.

In her declaration filed with this motion, Debtor alleges that the Disputed Claims were for services which may have been rendered to her daughter, Portia C. Barmes. *Decl. of Portia W. Barmes* 6, ECF No. 27. Debtor's daughter also submitted a declaration, claiming that the services were rendered to her and not her mother. *Decl. of Portia C. Barmes* 7, ECF No. 27. The Court notes that Debtor and her daughter have exactly the same forename and surname. Except for their middle names, Debtor's and her daughter's names would be indistinguishable.

Debtor included her birth date and last four digits of her social security number

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CONT... **Portia Wondaline Barmes**

Chapter 13

to provide additional verification. *Decl. of Portia W. Barmes* 6, ECF No. 27. RCU filed Form 410 correctly for the Disputed Claims. However, when question 6 of Part 2 is answered for Official Form 410, "Do you have any number you use to identify the Debtor," four digits are provided to identify the Debtor. These last four digits cannot be social security numbers because each of them is different from the other. Thus, each claim has a unique account number identifying the alleged owner of the debt. This would weaken Debtor's claim that the services were provided to her daughter.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014, and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (quoting *In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (quoting *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP

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CONT... Portia Wondaline Barmes

Chapter 13

1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

TENTATIVE RULING:

Here, while the disputed claims are prima facie valid, the Movant has presented evidence that the disputed claims do not reflect obligations of the Debtor. RCU has failed to present any evidence to meet the shifting burden. In addition, having failed to oppose RCU is deemed to consent to the disallowance. LBR 9013-1(h). Therefore, the tentative is to SUSTAIN the objections.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Portia Wondaline Barmes

Represented By
Dana Travis

Movant(s):

Portia Wondaline Barmes

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-14828 Portia Wondaline Barmes

Chapter 13

#9.00 Motion to Disallow Claims 10

Also #8

EH__

Docket 29

Tentative Ruling:

12/5/19

BACKGROUND:

On June 3, 2019 ("Petition Date"), Portia Wondaline Barmes ("Debtor") filed for voluntary Chapter 13 petition. As part of the required documents to file the petition, Debtor submitted Official Form 106 E/F, which included unsecured claims. *Official Form 106 E/F* 1-5, ECF No. 1. Debtor neither listed Verizon Wireless ("Verizon") nor Jefferson Capital Systems, LLC ("Jefferson"), the current owner of the claim the Debtor wants to disallow.

Nonetheless, on August 6, 2019, Jefferson filed an Official Form 410–Proof of Claim, stating that Debtor owned it \$2,716.79 ("Claim 10-1"). Debtor filed this motion requesting the Court to disallow it. Debtor states that the last transaction date and payment date which was provided by Jefferson states December 21, 2012. *Debtor's Mot. to Disallow Claim Number 10* at 2. Debtor alleges this claim was filed beyond any reasonable statute of limitations. *Id.*

Jefferson even acknowledges Debtor's sentiment. On page 4 of Official Form 410 filed for this claim, Jefferson states that "the claim may be unenforceable because it is outside of the applicable statute of limitations."

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CONT... Portia Wondaline Barmes

Chapter 13

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014, and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

Cal. Code Civ. Procedure §337

"Within four years...(b) An action to recover (1) upon a book account whether consisting of one or more entries; (2) upon an account stated based upon an account in writing, but the acknowledgement of the account need not be in writing; (3) a balance

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CONT... Portia Wondaline Barmes

Chapter 13

due upon a mutual, open and current account, the items of which are in writing; provided, however, that if an account state is based upon an account of one item, the time shall begin to run from the date of the item, and if an account stated is based upon an account of more than one item, the time shall begin to run from the date of the last item....(d) When the period in which an action must be commenced under this section has run, a person shall not bring suit or initiate an arbitration or other legal proceeding to collect the debt..."

TENTATIVE RULING:

Pursuant to Cal. Code Civ Procedures §337, Claim 10-1 is time-barred. December 21, 2012 was both the last payment date and the last transaction date. Thus, this is the date where the four-year limitation starts to run. Four years after December 21, 2012 is December 21, 2016, which is about two years and some months too late from the Petition Date.

Jefferson fails to object to this motion. Thus, the Court is inclined to GRANT this order, disallowing Claim 10-1 in its entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Portia Wondaline Barmes

Represented By
Dana Travis

Movant(s):

Portia Wondaline Barmes

Represented By
Dana Travis

**United States Bankruptcy Court
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CONT... Portia Wondaline Barmes

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

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Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-13994 Oscar Carrasco De Dios and Sofia P. De Dios

Chapter 13

#10.00 CONT Motion RE: Objection to Claim Number 4 by Claimant CIT BANK, N.A..

From: 9/5/19, 10/3/19

Also #11

EH__

Docket 22

***** VACATED *** REASON: CONTINUED TO 1/9/20 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada

Joint Debtor(s):

Sofia P. De Dios

Represented By
Glenn Ward Calsada

Movant(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada
Glenn Ward Calsada
Glenn Ward Calsada

Sofia P. De Dios

Represented By
Glenn Ward Calsada
Glenn Ward Calsada

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-13994 Oscar Carrasco De Dios and Sofia P. De Dios

Chapter 13

#11.00 CONT Confirmation of Chapter 13 Plan

From: 8/1/19, 9/5/19, 10/3/19

Also #10

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Oscar Carrasco De Dios

Represented By
Glenn Ward Calsada

Joint Debtor(s):

Sofia P. De Dios

Represented By
Glenn Ward Calsada

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17725 Michelle R. Rayner

Chapter 13

#12.00 CONT Confirmation of Chapter 13 Plan

From: 11/21/19

EH __

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle R. Rayner

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17884 Cassandra Henderson

Chapter 13

#13.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cassandra Henderson

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17897 Christina D. Cochran

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christina D. Cochran

Represented By
Gregory Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17901 Wendy Ramirez

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Wendy Ramirez

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17919 Fernando Lee Cuevas

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/27/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Fernando Lee Cuevas

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17930 Mark Anthony Romero and Trinetta Christine Romero

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Anthony Romero

Represented By
Rex Tran

Joint Debtor(s):

Trinette Christine Romero

Represented By
Rex Tran

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17945 Yvonne Irene Rodriguez

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/30/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yvonne Irene Rodriguez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17950 Frank Joseph Castodio

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Joseph Castodio

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17957 Maria Luisa Barrera and Armando Ibarra Barrera, Sr.

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 9/30/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria Luisa Barrera

Represented By
Nathan Fransen

Joint Debtor(s):

Armando Ibarra Barrera Sr.

Represented By
Nathan Fransen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17970 Hugo Perez

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/9/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hugo Perez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17987 John A Kiernan and Maria Kiernan

Chapter 13

#22.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John A Kiernan

Represented By
Paul Y Lee

Joint Debtor(s):

Maria Kiernan

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17991 Wayne Morris and Celia Morris

Chapter 13

#23.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Wayne Morris

Represented By
Michael A Cisneros

Joint Debtor(s):

Celia Morris

Represented By
Michael A Cisneros

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17992 Judy May Wells

Chapter 13

#24.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Judy May Wells

Represented By
David L Nelson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18002 Joseph R. Hernandez

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph R. Hernandez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18003 Ruben Macias and Carmen Macias

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ruben Macias

Represented By
Dana Travis

Joint Debtor(s):

Carmen Macias

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18004 Marcus Lee Henderson

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marcus Lee Henderson

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18038 Koppi V. Beskid

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Koppi V. Beskid

Represented By
Gregory Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18080 Jose C Aguiar and Maria Fatima Aguiar

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose C Aguiar

Represented By
Dana Travis

Joint Debtor(s):

Maria Fatima Aguiar

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18082 Jeffrey Danh

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey Danh

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18089 Edwin Leonel Barco and Juana De Jesus Marin

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edwin Leonel Barco

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Juana De Jesus Marin

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18105 Jason Benjamin Marlow and Linda Sue Marlow

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jason Benjamin Marlow

Represented By
Julie J Villalobos

Joint Debtor(s):

Linda Sue Marlow

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18138 Carlos Villasenor and Christine Villasenor

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlos Villasenor

Represented By
Christopher Hewitt

Joint Debtor(s):

Christine Villasenor

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18143 Rajinder Adlakha

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rajinder Adlakha

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18144 Andy Barajas

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andy Barajas

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18153 Jesus Antonio Palomares and Claudia Heredia Palomares

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/4/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesus Antonio Palomares Pro Se

Joint Debtor(s):

Claudia Heredia Palomares Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18174 Karen Ann Hurd

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 10/7/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Karen Ann Hurd

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18194 Raymond Joseph Prieto, Jr. and Dena Prieto

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Raymond Joseph Prieto Jr.

Represented By
David Lozano

Joint Debtor(s):

Dena Prieto

Represented By
David Lozano

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18197 Melquiades Ortiz and Elizabeth De Jesus Aurelio-Ortiz

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Melquiades Ortiz

Represented By
David Lozano

Joint Debtor(s):

Elizabeth De Jesus Aurelio-Ortiz

Represented By
David Lozano

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18209 Carlos A Martinez

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carlos A Martinez

Represented By
Daniel King

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18216 Billy J Woody and Tamara L Woody

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Billy J Woody

Represented By
Amanda G Billyard

Joint Debtor(s):

Tamara L Woody

Represented By
Amanda G Billyard

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18220 Virgilin Suan Masibay

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Virgilin Suan Masibay

Represented By
Rex Tran

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18241 Rhonda Kline

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 9/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rhonda Kline

Represented By
Bruce A Boice

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18242 Roderick Harlan Friloux and Rebecca Andrade-Friloux

Chapter 13

#44.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roderick Harlan Friloux

Represented By
Tina H Trinh

Joint Debtor(s):

Rebecca Andrade-Friloux

Represented By
Tina H Trinh

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18247 Douglas E Crayton

Chapter 13

#45.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas E Crayton

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18289 Zackery B. Ogletree and Danielle Police

Chapter 13

#46.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zackery B. Ogletree

Represented By
James D. Hornbuckle

Joint Debtor(s):

Danielle Police

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-18295 Jihad Jundi

Chapter 13

#47.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jihad Jundi

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-16941 Latacia D Sanders

Chapter 13

#48.00 CONT Confirmation of Chapter 13 Plan

From: 10/31/19, 11/21/19

EH __

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Latacia D Sanders

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 5, 2019

Hearing Room 303

11:00 AM

6:19-17413 Alejandro Rubio Williams

Chapter 13

#49.00 CONT Confirmation of Chapter 13 Plan

From: 11/7/19

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 11/26/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alejandro Rubio Williams

Represented By
Robert W Ripley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:14-19520 Jeffrey B Jordan

Chapter 13

#50.00 CONT Trustee's Motion to Dismiss Case

From: 10/3/19, 10/31/19

EH ____

Docket 71

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jeffrey B Jordan

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:15-22033 Shyla L. Montgomery

Chapter 13

#51.00 Trustee's Motion to Dismiss Case

EH__

Docket 121

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shyla L. Montgomery

Represented By
Michael Smith
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:16-12191 Valicia LaShawn Fennell

Chapter 13

#52.00 Trustee's Motion to Dismiss Case

EH__

Docket 112

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Valicia LaShawn Fennell

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:16-12849 Elsy G. Mejia

Chapter 13

#53.00 Trustee's Motion to Dismiss Case

EH__

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Joint Debtor(s):

Elsy G. Mejia

Represented By
James G. Beirne

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:16-20163 Sandra M. Hankins

Chapter 13

#54.00 Trustee's Motion to Dismiss Case

EH__

Docket 103

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sandra M. Hankins

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:17-11131 Bruce Howard Ruggles and Ann Marie Ruggles

Chapter 13

#55.00 CONT Trustee's Motion to Dismiss Case

From: 11/21/19

EH__

Docket 131

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/2/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Howard Ruggles

Represented By
John F Brady

Joint Debtor(s):

Ann Marie Ruggles

Represented By
John F Brady

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:17-13539 Albert Granados

Chapter 13

#56.00 Trustee's Motion to Dismiss Case

EH__

Docket 57

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Albert Granados

Represented By
Jonathan D Doan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:17-14157 Joe Wallace Brown and Yolanda Denise Moore

Chapter 13

#57.00 CONT Trustee's Motion to Dismiss Case

From: 11/21/19

EH__

Docket 57

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/2/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joe Wallace Brown

Represented By
Christopher J Langley

Joint Debtor(s):

Yolanda Denise Moore

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:17-14650 Brian Eugene Anderson and Gina Marie Anderson

Chapter 13

#58.00 CONT Trustee's Motion to Dismiss Case

From: 11/21/19

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian Eugene Anderson

Represented By
Todd L Turoci

Joint Debtor(s):

Gina Marie Anderson

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:17-15647 Omar Enrique Lopez

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 57

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Omar Enrique Lopez

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:17-16542 Mike A. Granados, Jr. and Carolynne Jeannette Granados

Chapter 13

#60.00 CONT Trustee's Motion to Dismiss Case

From: 11/21/19

EH__

Docket 57

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mike A. Granados Jr.

Represented By
Gregory M Shanfeld

Joint Debtor(s):

Carolynne Jeannette Granados

Represented By
Gregory M Shanfeld
Gabriella Gonzales

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:19-15598 Alma Barbara Ewing

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH__

Docket 30

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/21/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alma Barbara Ewing

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:18-19183 Carmen Lynn Chilson

Chapter 13

#62.00 CONT Trustee's Motion to Dismiss Case

From: 10/17/19

EH__

Docket 73

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carmen Lynn Chilson

Represented By
Steven A Alpert

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:19-10001 Jose Diaz and Betty Diaz

Chapter 13

#63.00 CONT Trustee's Motion to Dismiss Case

From: 10/31/19, 11/21/19

EH__

Docket 32

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Diaz

Represented By
Nima S Vokshori

Joint Debtor(s):

Betty Diaz

Represented By
Nima S Vokshori

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:19-11281 Nadia Michelle Lipscomb

Chapter 13

#64.00 CONT Trustee's Motion to Dismiss Case

From: 11/21/19

EH__

Docket 43

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nadia Michelle Lipscomb

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:19-12079 Nora Munoz

Chapter 13

#65.00 Trustee's Motion to Dismiss Case

EH__

Docket 31

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nora Munoz

Represented By
William Radcliffe

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:19-13806 Gonzalo Najera and Wendy Lomeli Najera

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH__

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gonzalo Najera

Represented By
Sundee M Teeple

Joint Debtor(s):

Wendy Lomeli Najera

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:19-13876 Christopher Steven Henthorn and Christine Lynne Apodaca

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Steven Henthorn

Represented By
Seema N Sood

Joint Debtor(s):

Christine Lynne Apodaca

Represented By
Seema N Sood

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:19-14735 Trinen Arniese Pratt

Chapter 13

#68.00 CONT Trustee's Motion to Dismiss Case

From: 10/31/19, 11/21/19

EH__

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Trinen Arniese Pratt

Represented By
Rabin J Pournazarian

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:19-15511 Ralph Carver Lowe

Chapter 13

#69.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/21/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ralph Carver Lowe

Represented By
Neil R Hedtke

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 5, 2019

Hearing Room 303

11:01 AM

6:17-16114 Allan Omar Ramos

Chapter 13

#70.00 Trustee's Motion to Dismiss Case

EH__

Docket 51

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allan Omar Ramos

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 10, 2019

Hearing Room 303

11:00 AM

6:19-20173 Roshanda Jeannen Dodds

Chapter 13

#1.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 9658 Bella Vista Dr., Morongo Valley, CA 92256

MOVANT: ROSHANDA JEANNEN DODDS

EH__

Docket 9

Tentative Ruling:

12/10/2019

Service is Improper

Opposition: None

11 U.S.C. § 362(c)(3)(C)(i)(II)(cc) provides for a statutory presumption that a case was filed in bad faith when a debtor had a case dismissed in the previous year after failing to perform the terms of a plan confirmed by the court. Here, Debtor's previous case was dismissed for failure to make plan payments on October 31, 2019. Therefore, the instant case is presumed to have been filed in bad faith. Section 362(c)(3)(C) requires that Debtor submit "clear and convincing" evidence in order to rebut the presumption that the case was filed in bad faith. Here, the evidence submitted by Debtor indicates that she is now receiving family support. The evidence submitted by Debtor does not provide any detail regarding the source, amount, or duration of the family support now received. Therefore, Debtor has not provided any "clear and convincing" evidence establishing a change in financial circumstances between the dismissal of the previous case and the filing of the instant case.

Additionally, the Court notes that Judge Houle's self-calendarizing procedures require that motions to continue the automatic stay which

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11:00 AM

CONT... Roshanda Jeannen Dodds

Chapter 13

are served on shortened time be served on secured creditors pursuant to FED. R. BANKR. P. Rule 7004. Here, Debtor has not complied with this service requirement.

Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Roshanda Jeannen Dodds

Represented By
Nicholas M Wajda

Movant(s):

Roshanda Jeannen Dodds

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 10, 2019

Hearing Room 303

11:00 AM

6:19-20022 Katina Deneen Edwards

Chapter 13

#2.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property located at 27183 Lasso Way, Corona, CA 92883

MOVANT: KATINA DENEEN EDWARDS

EH__

Docket 12

Tentative Ruling:

12/10/2019

Service is Proper
Opposition: None

11 U.S.C. § 362(c)(3)(C)(i)(II)(cc) provides for a statutory presumption that a case was filed in bad faith when a debtor had a case dismissed in the previous year after failing to perform the terms of a plan confirmed by the court. Here, Debtor's previous case was dismissed for failure to make plan payments on May 2, 2019. Therefore, the instant case is presumed to have been filed in bad faith. Section 362(c)(3)(C) requires that Debtor submit "clear and convincing" evidence in order to rebut the presumption that the case was filed in bad faith. Here, the evidence submitted by Debtor indicates that four months before her case was dismissed, she was injured at work. Thereafter, Debtor received disability within a month. Nevertheless, approximately three months later, Debtor's case was dismissed. Debtor has not provided any "clear and convincing" evidence establishing a change in financial circumstances between the dismissal of the previous case and the filing of the instant case. Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 10, 2019

Hearing Room 303

11:00 AM

CONT... Katina Deneen Edwards

Chapter 13

Debtor(s):

Katina Deneen Edwards

Represented By
Paul Y Lee

Movant(s):

Katina Deneen Edwards

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 10, 2019

Hearing Room 303

11:00 AM

6:19-19946 Gary Ellison and Rachelle Malbrough

Chapter 13

#3.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real and personal property

MOVANT: GARY AND RACHELLE ELLISON

EH__

Docket 17

Tentative Ruling:

12/10/19

Service: Improper

Opposition: None

As a preliminary matter, the Court notes that Judge Houle's miscellaneous instructions state: "If a secured creditor has filed a motion for relief from the automatic stay in a prior case, Judge Houle also requires that counsel for the secured creditor be served with the motion to continue the automatic stay." Here, HSBC Bank, USA filed a motion for relief from the automatic stay in Debtors' previous case and was not served with the instant motion.

Turning to the merits, the Court notes that, as a preliminary matter, Debtors have improperly requested that the automatic stay be imposed under 11 U.S.C. § 362(c)(4), rather than continued under 11 U.S.C. § 362(c)(3). While Rachel Malbrough had a previous Chapter 13 case dismissed on July 3, 2019, and Debtors filed a subsequent Chapter 7 case, the Debtors' subsequent Chapter 7 case was not dismissed. Because § 362(c)(4) is only triggered if multiple cases were dismissed in the prior year, it does not apply in this situation.

Construing the motion as a motion to *continue* the automatic stay under 11 U.S.C. § 362(c)(3), the Court notes that the case dismissed in the previous year was only filed by Rachel Malbrough. The Court notes that there is a split of authority regarding

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CONT... Gary Ellison and Rachelle Malbrough

Chapter 13

whether the automatic stay applies to a joint debtor who was a non-filing spouse in the previous case. While the Bankruptcy Appellate Panel acknowledges that it is the minority position on the issue, the Court agrees with Judge Saltzman's reasoning outlined in *In re Reswick*, 446 B.R. 362, 369-70 (B.A.P. 9th Cir. 2011), and is of the position that the automatic stay only terminates with regard to the spouse who filed the previously dismissed petition. Therefore, in this case, the automatic stay will not expire after thirty days with respect to Gary Ellison.

A second rather unique issue is present here because the affected creditor, HSBC Bank USA National Association ("Creditor"), filed a relief from stay motion that was withdrawn in Rachel Malbrough's previously dismissed Chapter 13 case, but also filed a relief from stay motion that was granted in the now-discharged Chapter 7 case. 11 U.S.C. § 362(c)(3)(C)(ii) provides for a rebuttable presumption of bad faith

as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, *as of the date of dismissal of such case*, that action was still pending or had been resolved by terminating, conditioning, or limited the stay as to actions of such creditor.

(emphasis added). This provision does not appear to be triggered in this case because Debtors' previous Chapter 7 case was not dismissed, and the relief from stay filed in the dismissed Chapter 13 case was withdrawn prior to being resolved. Therefore, not only have Debtors mischaracterized this motion as a motion to impose the automatic stay, Debtors have misidentified the statutory provision which triggers a presumption that the case was filed in bad faith.

Turning to 11 U.S.C. § 362(c)(3)(C)(i), the provision which provides for a general presumption of bad faith as to all creditors, the Court notes that the unique nature of the previous dismissal creates a question of whether this statutory presumption is triggered. While the instant motion states that the previous case was dismissed for failure to appear at a status conference, which may have proximately caused the dismissal, the Court notes that the status conference was set by the presiding judge due to Rachel Malbrough's postpetition default on direct payments to Creditor, which, in the order setting the status conference, the judge referred to as a default "under a material

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CONT... Gary Ellison and Rachelle Malbrough

Chapter 13

provision" of a "confirmed chapter 13 plan." [Dkt. No. 43, case 6:17-bk-18055-WJ]. Additionally, the order setting the status conference explicitly required that a brief or declaration be filed if Rachel Malbrough did not intend to convert her case to a Chapter 7 case, so the failure to file such brief would appear to fall within the scope of § 362(c)(3)(C)(i)(II)(aa), generating a presumption of bad faith as to all creditors.

Turning to whether Debtors have rebutted the statutory presumption of bad faith, *In re Elliott-Cook*, 357 B.R. 811 (Bankr. N.D. Cal. 2006) states the following, "the types of factors to be considered make it clear that two issues are very significant for purposes of determining good faith under § 362(c)(3): (1) why the previous plan failed, and (2) what has changed so that the present plan is likely to succeed." 357 B.R. at 815. Here, the previous plan failed because Rachel Malbrough fell behind on her postpetition payments to Creditor, the Court set a status conference regarding the default, and Rachel Malbrough did not take any steps to respond to the order. The Court does note though that the eventual withdrawal of the motion for relief from the automatic stay seems to imply that Rachel Malbrough may have cured the postpetition default.

Nevertheless, while the declaration of Rachel Malbrough, who filed her previous Chapter 13 case *pro se*, says she was unaware of Judge Johnson's order and had been traveling across the country to assist her father with his medical issues, there are two simpler reasons why the reasons for the failure of the previous plan are not likely to reoccur here: (1) Debtors are not *pro se* in the instant case; and (2) this Court does not set Chapter 13 status conferences. More specifically, the reasons for the dismissal of the previous case would not have generated a dismissal if Rachel Malbrough was not required to appear for a status conference. Therefore, applying the standard from *In re Elliott-Cook*, the Court deems Debtors to have adequately rebutted the statutory presumption that the instant case was filed in bad faith.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Gary Ellison

Represented By
Todd L Turoci

**United States Bankruptcy Court
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CONT... Gary Ellison and Rachelle Malbrough

Chapter 13

Joint Debtor(s):

Rachelle Malbrough

Represented By
Todd L Turoci

Movant(s):

Gary Ellison

Represented By
Todd L Turoci
Todd L Turoci

Rachelle Malbrough

Represented By
Todd L Turoci
Todd L Turoci
Todd L Turoci
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, December 10, 2019

Hearing Room 303

11:00 AM

6:19-19922 Angela Clarice Atou

Chapter 13

#4.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real and personal property

MOVANT: ANGELA CLARICE ATOU

EH__

Docket 13

Tentative Ruling:

12/10/19

Service: Improper

Opposition: None

As a preliminary matter, the Court notes that Judge Houle's miscellaneous instructions state: "If a secured creditor has filed a motion for relief from the automatic stay in a prior case, Judge Houle also requires that counsel for the secured creditor be served with the motion to continue the automatic stay." Here, Lakeview Loan Servicing, LLC, filed a motion for relief from the automatic stay in Debtor's previous case and was not served with the instant motion.

Turning to the merits, while the Court finds the legal analysis provided by Debtor to be accurate and helpful, the Court does not consider the evidence submitted by Debtor to be sufficient to meet the "clear and convincing" standard delineated in 11 U.S.C. § 362(c)(3)(C).

As articulated in a case relied upon by Debtor, *In re Elliott-Cook*, 357 B.R. 811 (Bankr. N.D. Cal. 2006), "the types of factors to be considered make it clear that two issues are very significant for purposes of determining good faith under § 362(c)(3): (1) why the previous plan failed, and (2) what has changed so that the present plan is likely to succeed." 357 B.R. at 815. And, as stated in the other case primarily relied upon by Debtor, "[t]he movant must provide detailed, competent [] evidence sufficient

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CONT... Angela Clarice Atou

Chapter 13

to satisfy all elements of § 362(c)(3)(B) and, if applicable, to rebut the presumption of bad faith in §[] 362(c)(3)(C)(i) and (ii)." *In re Castaneda*, 342 B.R. 90, 96 (Bankr. S.D. Cal. 2006). The evidence must be "so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts of the case." *Id.*

Here, the motion asserts that Debtor's previous case failed due to medical issues. The motion, however, does not provide any evidence regarding the nature and severity of the medical issues, and, most importantly, whether those medical issues are likely to reoccur during the pendency of a Chapter 13 case. Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Angela Clarice Atou

Represented By
Todd L Turoci

Movant(s):

Angela Clarice Atou

Represented By
Todd L Turoci
Todd L Turoci
Todd L Turoci
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, December 10, 2019

Hearing Room 303

11:00 AM

6:19-19853 Marlejan Josue Alcaraz and Maria De Los Angeles Alcaraz Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA CIVIC, VIN: 2HGF C1F7 1HH6 54137

MOVANT: HONDA LEASE TRUST

EH__

Docket 10

Tentative Ruling:

12/10/2019

Service is Proper

Opposition: None

11 U.S.C. § 362(h)(1)(A) provides:

(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) –

(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or *to indicate in such statement that the debtor will* either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or *assume such unexpired lease pursuant to section 365(p) if the trustee does not do so*, as

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CONT... Marlejan Josue Alcaraz and Maria De Los Angeles Alcaraz
applicable;

Chapter 7

(emphasis added). Here, Debtors' statement of intention indicates that they will not assume the lease. Therefore, the automatic stay has terminated as a matter of law. While 11 U.S.C. § 365(d) allows the Chapter 7 Trustee to assume a lease within sixty days of the petition date, 11 U.S.C. § 362(h)(2) requires that the Trustee file a motion to prevent the automatic stay termination outlined in § 362(h)(1). Such a motion not having been filed in this case, the Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Marlejan Josue Alcaraz

Represented By
Anerio V Altman

Joint Debtor(s):

Maria De Los Angeles Alcaraz

Represented By
Anerio V Altman

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjan

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-19648 Jamie Lynn Vieira-Ceron Hernandez

Chapter 7

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Ford EcoSport, VIN: MAJ3P1TE9JC202086

MOVANT: FORD MOTOR CREDIT COMPANY LLC

EH__

Docket 11

Tentative Ruling:

12/10/2019

Service is Proper

Opposition: None

11 U.S.C. § 362(h)(1)(A) provides:

(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) –

(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property *or to indicate in such statement that* the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as

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CONT... **Jamie Lynn Vieira-Ceron Hernandez**
 applicable;

Chapter 7

(emphasis added). Here, Debtors did not address the subject collateral in the statement of intention or in the schedules. Therefore, the automatic stay has terminated as a matter of law. The Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jamie Lynn Vieira-Ceron Hernandez	Represented By James P Doan
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Movant(s):

Ford Motor Credit Company LLC	Represented By Sheryl K Ith
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Trustee(s):

Lynda T. Bui (TR)	Pro Se
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Tuesday, December 10, 2019

Hearing Room 303

11:00 AM

6:19-19015 Isaac Santillan

Chapter 13

#7.00 Motion for Relief from Stay

MOVANT: BERNARDO GAMBOA

EH__

Docket 17

Tentative Ruling:

12/10/2019

Service: Proper
Opposition: Yes.

On October 14, 2019, Isaac Santillan ("Debtor") filed a Chapter 13 voluntary petition.

On November 14, 2019, Bernardo Gamboa ("Movant") filed a motion for relief from the automatic stay, seeking to continue pending state court litigation relating to claims for: (1) fraud; (2) breach of fiduciary duty; (3) constructive fraud; (4) wrongful eviction – in tort; (5) escrow malfeasance; (6) deceit and fraud; (7) cancellation of instruments; (8) rescission; (9) money had and received; (10) conversion; (11) conspiracy; and (12) declaratory relief. The parties to the state court litigation have been engaged in extensive discovery and Movant's motion alleges that Debtor has been uncooperative during that process. Movant asserts that the filing of the instant bankruptcy case was merely a delay tactic by Debtor. Movant also asserts that Debtor listed few creditors in the case commencement documents, although the Court notes that Debtor did schedule a material amount of unsecured debt in Schedule F. More importantly, Movant asserts that the state court litigation includes non-debtor parties, from whom Movant primarily seeks recovery. Finally, Movant argues that the mandatory abstention rules in 28 U.S.C. § 1334 applies to this situation. The Court notes that trial in state court is currently scheduled for February 25, 2020.

On November 26, 2019, Debtor filed his opposition. Debtor's argument in opposition is not exactly clear, although Debtor certainly disputes whether Movant has met his

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CONT... Isaac Santillan

Chapter 13

burden and disputes the merits of the state court litigation and whether it was appropriate to include Debtor as a defendant in the litigation.

The Court notes that while Movant argues that 28 U.S.C. § 1334(c)(2) applies here, and Debtor does not raise an argument otherwise, a finding that mandatory abstention is appropriate does not automatically result in relief from stay. *See, e.g., In re Conejo Enters., Inc.*, 96 F.3d 346, 352 (9th Cir. 1996) ("First, a finding that mandatory abstention applies to the underlying state action does not preclude denial of relief from § 362's automatic stay.").

When considering a motion for relief from the automatic stay to pursue a non-bankruptcy action, the Court considers the *Curtis* factors:

- (1) Whether the relief will result in a partial or 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 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 good or proceeds in question;
- (7) whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties;
- (8) whether the judgment claim arising from the foreign action is subject to equitable subordination;
- (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 and the "balance of hurt."

In re Roger, 539 B.R. 837, 844-45 (C.D. Cal. 2015). In *Roger*, the Court further

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stated:

Chapter 13

The Ninth Circuit has recognized that the *Curtis* factors are appropriate, nonexclusive, factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum. While 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. According to the court in *Curtis*, the most important factor in determining whether to grant relief from the automatic stay to permit litigation against the debtor in another forum is the effect of such litigation on the administration of the estate. Even slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit. That said, some cases involving the automatic stay provision do not mention the *Curtis* factors at all. Nevertheless, although the term "cause" is not defined in the Code, courts in the Ninth Circuit have granted relief from stay under § 362(d) (1) when necessary to permit pending litigation to be concluded in another forum if the non-bankruptcy suit involves multiple parties or is ready for trial.

Id. at 845 (quotations and citations omitted). As is typically the case, "[t]he record does not indicate that *Curtis* factors 3, 4, 5, 6, 8, or 9 are at issue in this case, nor do the parties argue to the contrary." *Id.*

It would appear that all of the remaining *Curtis* factors weigh in favor of granting relief from the automatic stay. First, the state court trial would result in a complete resolution of the issues, while holding an evidentiary hearing or another proceeding in bankruptcy court would only result in a partial resolution. Second, judicial economy and efficiency is best served by having the state court litigation occur in a single forum, while this Court does not have jurisdiction over the non-debtor defendants. Third, Movant has agreed that collection on any resulting judgment in the state court case would be stayed while Debtor is in bankruptcy, with Movant retaining the ability to file

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CONT... **Isaac Santillan**

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a proof of claim, thereby avoiding interference with the bankruptcy case or any prejudice to creditors. Fourth, because the state court litigation was filed approximately twenty months ago and is less than three months away from trial, the 11th Curtis factor weighs in favor of relief from stay. Finally, the Court is inclined to conclude that the balance of harm favors granting relief from stay because it simply is not equitable to bifurcate a state court lawsuit, composed of solely state court causes of action, that has several non-debtor defendants, and that has been pending for nearly twenty months. If Movant prevails on the fraud claim and timely files a complaint for non-dischargeability, application of collateral estoppel would be the most effective path to a non-dischargeability judgment, as opposed to a trial in bankruptcy court on fraud.

While Debtor argues that Movant has not met his burden of proof, the details of Debtor's argument are less than clear. This district's form relief from stay motion includes six different commonly applicable grounds for relief from stay, five of which Movant asserts are applicable here. Even excluding Movant's argument that the case was filed in bad faith, Movant has identified four different commonly applicable grounds, and Debtor has not really provided an argument in opposition, other than to dispute the merits of the state court litigation as to Debtor. But the state court litigation has been pending for twenty months; if Movant does not have a colorable claim, then Debtor had and still has ample opportunity to raise that issue in state court.

The Court is inclined to GRANT request for relief pursuant to § 362(d)(1). GRANT waiver of Rule 4001(a) stay. GRANT requests under ¶¶ 2 and 6. DENY request for relief under ¶ 7 because it is not clear what Movant is requesting in that section.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Isaac Santillan

Represented By
Jenny L Doling

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Movant(s):

Bernardo Gamboa

Represented By
Larry Fabrizi

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-18992 Grizelda Melgoza

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 NISSAN MAXIMA // 1N4AA6AP1HC419135

MOVANT: FIRST TECH FEDERAL CREDIT UNION

EH__

Docket 13

Tentative Ruling:

12/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Grizelda Melgoza

Represented By
Brian J Soo-Hoo

Movant(s):

First Tech Federal Credit Union

Represented By
Nichole Glowin

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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6:19-15328 Angel Victoriano and Maura Guzman

Chapter 13

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4526 Berkley Avenue, Hemet, CA 92544

MOVANT: DITECH FINANCIAL LLC

EH__

Docket 27

Tentative Ruling:

12/10/19

Service: Okay

Opposition: None

Debtors had a previous Chapter 13 case dismissed on June 6, 2019. Pursuant to the operation of 11 U.S.C. § 362(c)(3)(A), the automatic stay, absent further order of the Court, was set to terminate on July 18, 2019. Debtors not having filed a motion to continue the automatic stay, the stay expired on July 18, 2019. Therefore, the Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Angel Victoriano

Represented By
Edward T Weber

Joint Debtor(s):

Maura Guzman

Represented By
Edward T Weber

Movant(s):

Ditech Financial LLC

Represented By

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CONT... Angel Victoriano and Maura Guzman

Chapter 13

Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-11346 Jeffrey R Powell

Chapter 13

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 33620 Oak Drive, Hemet, CA 92545

MOVANT: WILMINGTON SAVINGS FUND SOCIETY FSB

EH__

Docket 42

Tentative Ruling:

12/10/2019

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1).
GRANT relief from Rule 4001(a)(3) stay. GRANT requests under ¶¶ 2 and 3.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jeffrey R Powell

Represented By
David L Nelson

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kristin A Zilberstein

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:17-14469 Mario Timothy Velasquez and Susan Lorraine Velasquez Chapter 13

#11.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 109 West Rancho Road, Corona, California 92882

MOVANT: BANK OF AMERICA NA

From: 11/12/19

EH ____

Docket 45

Tentative Ruling:

Tentative Ruling:

11/12/19

Service is Proper
Opposition: Debtor

Parties to discuss amount of arrears. Furthermore, parties to apprise the court on adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mario Timothy Velasquez

Represented By
Paul Y Lee

Joint Debtor(s):

Susan Lorraine Velasquez

Represented By
Paul Y Lee

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CONT... Mario Timothy Velasquez and Susan Lorraine Velasquez

Chapter 13

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Kelsey X Luu
Gilbert R Yabes

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:17-11167 Victor Thomas Lawton

Chapter 13

#12.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 32272 Copper Crest Lane, Temecula, CA 92592

MOVANT: M&T BANK

EH__

Docket 76

***** VACATED *** REASON: ORDER ENTERED 12/10/19**

Tentative Ruling:

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Victor Thomas Lawton

Represented By
Norma Duenas

Movant(s):

M&T Bank, its assignees and/or

Represented By
Kristin A Zilberstein
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-19823 David Anthony Meisland

Chapter 13

#12.10 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 26818
Montseratt Court Murrieta, CA 92563

MOVANT: DAVID ANTHONY MEISLAND

EH ____

Docket 26

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Anthony Meisland

Represented By
Marc A Duxbury

Movant(s):

David Anthony Meisland

Represented By
Marc A Duxbury

Trustee(s):

Rod Danielson (TR)

Pro Se

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2:00 PM

6:19-19930 Enrique Garcia and Flavia C Garcia

Chapter 11

#13.00 Order (1) Setting Scheduling Hearing And Case Management Conference And
(2) Requiring Status Report

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Enrique Garcia

Represented By
Michael R Totaro

Joint Debtor(s):

Flavia C Garcia

Represented By
Michael R Totaro

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6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#14.00 Motion RE: Objection to Claim Number by Claimant Kabbage, Inc.

Also #15

EH__

Docket 186

Tentative Ruling:

12/10/19

BACKGROUND:

On April 12, 2019, Woodcrest Ace Hardware, Inc. ("Debtor") filed a Chapter 11 voluntary petition. On May 2, 2019, the Court authorized use of cash collateral on an interim basis. On June 19, 2019, the Court extended authorization to use cash collateral. This authorization was extended a second time on September 12, 2019.

After denying a motion for substantive consolidation, the Court ordered, on July 12, 2019, that Debtor's case be jointly administered with the cases of 9 Fingers, Inc. (19-13130), P&P Hardware, Inc. (19-13131), Riverside Ace Hardware, Inc. (19-13132), and Wildomar Ace Hardware, Inc. (19-13133) (collectively, "Debtors"). The Court has authorized the employment of Brass Tax Ryder Professional Group, Inc. as accountants for Debtors, Rosenstein & Associates as counsel for Debtors, and has approved Debtors' cash management system.

On May 28, 2019, the Court issued its order setting a claims bar date of July 29, 2019.

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CONT... Woodcrest Ace Hardware Inc.

Chapter 11

On October 31, 2019, Debtors filed an objection to any potential claim of Kabbage, Inc. ("Creditor"). The Court notes that the claims bar deadline has expired and Creditor has not filed a proof of claim.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

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CONT... Woodcrest Ace Hardware Inc.

Chapter 11

ANALYSIS:

Debtors have filed a claim objection to a claim that has not been filed. Debtors have not provided any legal analysis or caselaw to indicate that their motion is permissible. Additionally, the Court notes that FED. R. BANKR. P. Rule 7001(2) and (9) may require the relief requested to be brought by way of adversary proceeding, to the extent Debtors' motion seeks to have the Court determine the "validity, priority, or extent of a lien."

Nevertheless, Creditor's failure to file a proof of claim would appear to preclude this Court from considering Debtors' motion at this time.

TENTATIVE RULING

The Court is inclined to DENY the motion as premature.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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Woodcrest Ace Hardware Inc.

Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

Chapter 11

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6:19-13127 Woodcrest Ace Hardware Inc.

Chapter 11

#15.00 Motion for Extension of Time to have Plan of Reorganization Confirmed

Also #14

EH__

Docket 206

Tentative Ruling:

12/10/19

BACKGROUND

On April 12, 2019, Woodcrest Ace Hardware, Inc. ("Debtor") filed a Chapter 11 voluntary petition. On May 2, 2019, the Court authorized use of cash collateral on an interim basis. On June 19, 2019, the Court extended authorization to use cash collateral. This authorization was extended a second time on September 12, 2019.

After denying a motion for substantive consolidation, the Court ordered, on July 12, 2019, that Debtor's case be jointly administered with the cases of 9 Fingers, Inc. (19-13130), P&P Hardware, Inc. (19-13131), Riverside Ace Hardware, Inc. (19-13132), and Wildomar Ace Hardware, Inc. (19-13133) (collectively, "Debtors"). The Court has authorized the employment of Brass Tax Ryder Professional Group, Inc. as accountants for Debtors, Rosenstein & Associates as counsel for Debtors, and has approved Debtors' cash management system. Debtors' case is a small business case as defined by 11 U.S.C. § 101(51C) and (51D).

On November 1, 2019, the Court issued a scheduling order which imposed a deadline of: (a) November 15, 2019 for Debtors to file their disclosure statement and Chapter

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CONT... Woodcrest Ace Hardware Inc.

Chapter 11

11 plan; (b) January 31, 2020 for Debtors' disclosure statement to be approved; and (3) April 17, 2020 for Debtors' Chapter 11 plan to be confirmed.

On November 15, 2019, Debtors filed their disclosure statement and Chapter 11 plan. On November 19, 2019, Debtors filed a motion for approval of their disclosure statement, which is set for hearing on January 7, 2020. Debtors also filed a motion to extend the deadline to have their Chapter 11 plan confirmed. Debtors request that the deadline to confirm their Chapter 11 plan be extended to April 17, 2020.

DISCUSSION

11 U.S.C. § 1129(e) provides:

In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).

11 U.S.C. § 1121(e)(3) provides that requirements for extended the deadline set forth in 11 U.S.C. § 1129(e). Here, Debtors have satisfied the requirements set forth in § 1121(e)(3). Specifically, (1) Debtors have provided adequate notice of their motion to extend the § 1129(e) deadline; (2) the Court deems it more likely than not that Debtors will confirm their Chapter 11 plan within a reasonable period of time; (3) Debtors have identified a new proposed deadline, April 17, 2020; and (4) Debtors' motion is timely.

Additionally, the Court notes that its scheduling order entered on November 1, 2019, could be construed as extending the § 1129(e) deadline.

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Chapter 11

Finally, the Court has not received any opposition to the instant motion, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to GRANT the motion, extending the deadline for Debtors to have their Chapter 11 plan confirmed to April 17, 2020.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein

Movant(s):

Woodcrest Ace Hardware Inc.

Represented By
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein
Robert B Rosenstein

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6:19-17537 Jauregui Trucking, Inc.

Chapter 11

#16.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: Twenty-five (25) 2012 Wabash Dry Van Trailers; Thirty-seven (37) 2017 Wabash Trailers; Two (2) 2012 Great Dane Dry Van Trailers; Two (2) 2015 Volvo Trucks with Proof of Service. (Crastz, Jennifer)

MOVANT: WELLS FARGO EQUIPMENT FINANCE INC

Also #17 & #18

EH__

Docket 55

Tentative Ruling:

12/10/2019

Service: Proper
Opposition: Yes

Debtor's opposition having been filed six days late and the opposition conceding that Debtor is unable to make its ordered adequate protection payments, which already appear to have been half the contractual payment, until the month of February, the Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1). GRANT waiver of Rule 4001(a)(3) stay. GRANT request under ¶ 2.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

Movant(s):

Wells Fargo Equipment Finance

Represented By

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CONT... Jauregui Trucking, Inc.

Jennifer Witherell Crastz

Chapter 11

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6:19-17537 Jauregui Trucking, Inc.

Chapter 11

#17.00 CONT Emergency Hearing on Debtor's Motion for Authorization to use Cash Collateral

From: 9/4/19, 10/1/19, 11/12/19

Also #16 & #18

EH ____

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

Movant(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

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6:19-17537 Jauregui Trucking, Inc.

Chapter 11

#18.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From:10/1/19, 11/12/19

Also #16 & #17

EH__

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jauregui Trucking, Inc.

Represented By
Andrew S Bisom

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10:00 AM

6:19-16967 IRENE RAMOS

Chapter 7

#1.00 Reaffirmation Agreement Between Debtor and San Diego County Credit Union re
2014 Volkswagon Jetta

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

IRENE RAMOS

Represented By
Paul C Nguyen

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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6:19-17325 Ebony Mignon English

Chapter 7

#2.00 Pro se Reaffirmation Agreement Between Debtor and Santander Consumer USA
Inc. re 17 Nissan Altima

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ebony Mignon English

Pro Se

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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10:00 AM

6:19-17978 Shontay Brown

Chapter 7

#3.00 Pro se Reaffirmation Agreement Between Debtor and Mercedes-Benz Financial Services USA LLC re 2015 Mercedes-Benz C300W

EH__

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shontay Brown

Represented By
Michael Jay Berger

Trustee(s):

Howard B Grobstein (TR)

Pro Se

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Wednesday, December 11, 2019

Hearing Room 303

10:00 AM

6:19-18457 Jesse J Davis and Diana T Davis

Chapter 7

#4.00 Pro se Reaffirmation Agreement Between Debtor and Gateway One Lending & Finance, LLC re 2013 Jeep Wrangler

EH__

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesse J Davis

Pro Se

Joint Debtor(s):

Diana T Davis

Pro Se

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 11, 2019

Hearing Room 303

11:00 AM

6:18-16256 Ana Lorena Green

Chapter 7

#5.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 69

Tentative Ruling:

TENTATIVE RULING

12/11/19

Opposition: None

Service: Proper

The applications for compensation of the Trustee, Counsel for the Trustee, and Accountant for the Trustee have been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the Accountant, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$3,250.00

Trustee Expenses: \$172.90

Accountant Fees: \$1,638.00

Accountant Costs: \$273.80

With regards to Trustee's Counsel, its paralegal charge is \$250 per hour instead of \$150 that the Court believes is typical for paralegals in this area with similar experience doing similar work. Reducing the billable hour of the paralegal to \$150 per hour, Trustee Counsel's fee would be reduced by \$290 to \$7,100.50.

Attorney Fees: \$7,100.50

Attorney Costs: \$280.75

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Hearing Room 303

11:00 AM

CONT... Ana Lorena Green

Chapter 7

Debtor(s):

Ana Lorena Green

Represented By
Alon Darvish

Trustee(s):

Charles W Daff (TR)

Represented By
Brandon J Iskander
Lynda T Bui

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 11, 2019

Hearing Room 303

11:00 AM

6:19-13116 Jeannie Murri May

Chapter 7

#6.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 24

Tentative Ruling:

TENTATIVE RULING

12/11/19

Service: Proper

Opposition: None

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$1,750.00

Trustee Expenses: \$115.90

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Jeannie Murri May

Represented By
Karen E Lockhart

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 11, 2019

Hearing Room 303

11:00 AM

6:19-20226 Adlakha & Patel Enterprises Inc

Chapter 7

#7.00 Order to show cause why case should not be dismissed for failure to comply with Local Rule 9011-2(a)

EH__

Docket 6

Tentative Ruling:

12/11/19

BACKGROUND

On November 21, 2019 ("Petition Date"), Rajinder Adlakha filed a Chapter 7 voluntary petition as an agent of Adlakha & Patel Enterprises Inc. ("Debtor").

Debtor's articles of incorporation were filed on May 2, 2008, stating that the purpose of the Debtor was to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California. Like this petition, Rajinder Adlakha signed the document as an agent of Debtor.

Within seven years of its creation, May 12, 2015, Debtor's agent filed a certification of dissolution for Debtor. In that certification, Rajinder Adlakha signed his name as a director of Debtor. He also made claims that the Debtor's known debts and liabilities have been actually paid and the Debtor never acquired any known assets.

In the few commencement documents that were filed, Rajinder Adlakha made some assertions as an agent of the Debtor:

1. after administrative expenses are paid, no funds will be available for distribution to unsecured creditors;
2. estimate assets of the Debtor is between zero dollars and fifty thousand dollars; and
3. estimated liabilities of the debtor are between \$500,001 and \$1 million dollars.

The assertions made in the certification of dissolution seem to contradict the assertions

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11:00 AM

CONT... **Adlakha & Patel Enterprises Inc**
made in the commencement documents.

Chapter 7

However, a greater foible exists. Debtor petition was filed without counsel, violating LBR 9011-2(a). On November 25, 2019, the Court lodged this order to show cause. Debtor has not responded.

DISCUSSION

The Court issued the order to show cause under its inherent power.

11 U.S.C. § 105(a) states:

"The court may issue any order, process, or judgment that is necessary of appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process."

"It has been the law for the better part of two centuries, for example, that a corporation may appear in the federal courts only through licensed counsel. *Rowland v. California Men's Colony*, 506 U.S. 194, 202 (1993) (citing *Osborn v. President of Bank of United States*, 22 U.S. 738 (1984); see *In re America W. Airlines*, 40 F.3d 1058, 1059 (9th Cir. 1994) (stating that "corporations and other unincorporated associations must appear in court through an attorney.")

Local Bankr. Rules 9011-2(a):

"A Corporation, a partnership including a limited liability partnership, a limited liability company, or any other unincorporated association, or a trust may not file a petition or otherwise appear without counsel in any case or proceeding..."

In its quest to carry out the provisions of this title that are necessary, the Court lodged an order, asking Debtor why it should not be dismissed for failure to comply with LBR 9011-2(a). Having failed to respond, pursuant to LBR 9013-1(h), the Court has

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11:00 AM

CONT... **Adlakha & Patel Enterprises Inc** **Chapter 7**

deemed that the Debtor has consented to the granting of this motion. Debtor petition is dismissed.

TENTATIVE RULING

SERVICE: PROPER

OPPOSITION: NONE

For reasons stated above, this motion is GRANTED, DISMISSING Debtor's petition.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Adlakha & Patel Enterprises Inc	Pro Se
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Trustee(s):

Arturo Cisneros (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 11, 2019

Hearing Room 303

11:00 AM

6:19-20463 Christopher Monroe and Aysheh Spicer

Chapter 13

#7.10 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property located st 2584 W Fairview Dr., Rialto, CA 92377

MOVANT: CHRISTOPHER MONROE AND AYSHEH SPICER

EH__

Docket 9

Tentative Ruling:

TENTATIVE RULING:

12/11/19

Service: Proper-shortened notice

Opposition: None

The declaration presented is made by "Christopher Lee Summer," who is not a debtor in this case. The Court will CONTINUE hearing for amended declaration to be filed.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Christopher Monroe

Represented By
Paul Y Lee

Joint Debtor(s):

Aysheh Spicer

Represented By
Paul Y Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

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Hearing Room 303

11:00 AM

CONT... Christopher Monroe and Aysheh Spicer

Chapter 13

Movant(s):

Christopher Monroe

Represented By
Paul Y Lee

Aysheh Spicer

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 11, 2019

Hearing Room 303

11:00 AM

6:19-20022 Katina Deneen Edwards

Chapter 13

#7.20 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property located at 27183 Lasso Way, Corona, CA 92883

MOVANT: KATINA DENEEN EDWARDS

From: 12/10/19

EH__

Docket 12

Tentative Ruling:

12/10/2019

Service is Proper
Opposition: None

11 U.S.C. § 362(c)(3)(C)(i)(II)(cc) provides for a statutory presumption that a case was filed in bad faith when a debtor had a case dismissed in the previous year after failing to perform the terms of a plan confirmed by the court. Here, Debtor's previous case was dismissed for failure to make plan payments on May 2, 2019. Therefore, the instant case is presumed to have been filed in bad faith. Section 362(c)(3)(C) requires that Debtor submit "clear and convincing" evidence in order to rebut the presumption that the case was filed in bad faith. Here, the evidence submitted by Debtor indicates that four months before her case was dismissed, she was injured at work. Thereafter, Debtor received disability within a month. Nevertheless, approximately three months later, Debtor's case was dismissed. Debtor has not provided any "clear and convincing" evidence establishing a change in financial circumstances between the dismissal of the previous case and the filing of the instant case. Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, December 11, 2019

Hearing Room 303

11:00 AM

CONT... Katina Deneen Edwards

Chapter 13

Party Information

Debtor(s):

Katina Deneen Edwards

Represented By
Paul Y Lee

Movant(s):

Katina Deneen Edwards

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 11, 2019

Hearing Room 303

2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01227 Anderson, Chapter 7 Trustee v. Wang et al

#8.00 CONT Status Conference RE: [13] Amended Complaint Karl T. Anderson, Chapter 7 Trustee's First Amended Complaint; with Proof of Service by Thomas J Polis on behalf of Karl T. Anderson, Chapter 7 Trustee against LiLi Chang, JWLC Imports, Inc., Ming Chung Wang. (RE: related document(s)1 Adversary case 6:18-ap-01227. Complaint by Karl T. Anderson, Chapter 7 Trustee against Ming Chung Wang. (Charge To Estate - \$350.00). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)),(11 (Recovery of money/property - 542 turnover of property)) (Polis, Thomas) Modified on 11/19/2018. filed by Plaintiff Karl T. Anderson, Chapter 7 Trustee). (Attachments: # 1 Exhibit A # 2 Exhibit B # 3 Exhibit C # 4 Exhibit D) (Polis, Thomas)

From: 9/18/19

EH ____

Docket 13

***** VACATED *** REASON: CONTINUED TO 3/25/20 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Ming Chung Wang

Pro Se

LiLi Chang

Pro Se

JWLC Imports, Inc.

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, December 11, 2019

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2:00 PM

CONT... Eastern Legends CW

Chapter 7

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

**United States Bankruptcy Court
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 11, 2019

Hearing Room 303

2:00 PM

6:17-18295 Eastern Legends CW

Chapter 7

Adv#: 6:18-01222 Anderson, Chapter 7 Trustee v. Bobby Lee Associates, LLC

#9.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01222. Complaint by Karl T. Anderson, Chapter 7 Trustee against Bobby Lee Associates, LLC. (Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(14 (Recovery of money/property - other)),(13 (Recovery of money/property - 548 fraudulent transfer)) (Polis, Thomas)

From: 1/16/19, 4/17/19, 6/12/19, 9/18/19, 10/2/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/25/20 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eastern Legends CW

Represented By
Lawrence B Yang

Defendant(s):

Bobby Lee Associates, LLC

Represented By
Keith S Knochel

Plaintiff(s):

Karl T. Anderson, Chapter 7 Trustee

Represented By
Thomas J Polis

Trustee(s):

Karl T Anderson (TR)

Represented By
Thomas J Polis

United States Bankruptcy Court
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Judge Mark Houle, Presiding
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Wednesday, December 11, 2019

Hearing Room 303

2:00 PM

6:19-16505 Jesse Joseph Shelby

Chapter 7

Adv#: 6:19-01126 Shelby v. SOFI LENDING CORP.

#10.00 Plaintiff's Motion for Default Judgment Against Defendant **Sofi Lending Corp**

EH__

Docket 13

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/21/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jesse Joseph Shelby

Represented By
Steven A Alpert

Defendant(s):

SOFI LENDING CORP.

Pro Se

Joint Debtor(s):

Tina Marie Shelby

Represented By
Steven A Alpert

Movant(s):

Jesse Joseph Shelby

Represented By
Christine A Kingston

Plaintiff(s):

Jesse Joseph Shelby

Represented By
Christine A Kingston

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Wednesday, December 11, 2019

Hearing Room 303

2:00 PM

6:19-14650 Blanca Flor Torres

Chapter 7

Adv#: 6:19-01117 Whitmore v. Gularte et al

#11.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01117. Complaint by Robert S. Whitmore against Jose Gularte, Marjorie Elizabeth Gularte-Torres. (Charge To Estate \$350.00). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other)) (Philippi, Julie)

From: 10/16/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Blanca Flor Torres

Represented By
Brian J Horan

Defendant(s):

Jose Gularte

Pro Se

Marjorie Elizabeth Gularte-Torres

Pro Se

Plaintiff(s):

Robert S. Whitmore

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

**United States Bankruptcy Court
Central District of California
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Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 11, 2019

Hearing Room 303

2:00 PM

6:19-12225 Nathaniel James Cardiel

Chapter 7

Adv#: 6:19-01135 O'Gara Coach Company, LLC v. Cardiel

#12.00 Status Conference RE: [1] Adversary case 6:19-ap-01135. Complaint by O'Gara Coach Company, LLC against Nathaniel James Cardiel. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(65 (Dischargeability - other)),(41 (Objection / revocation of discharge - 727(c),(d),(e))) (Polis, Thomas)

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nathaniel James Cardiel

Represented By
Sevan Gorginian

Defendant(s):

Nathaniel James Cardiel

Represented By
Todd L Turoci

Plaintiff(s):

O'Gara Coach Company, LLC

Represented By
Thomas J Polis

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 11, 2019

Hearing Room 303

2:00 PM

6:19-19936 Jori Lynn Smith

Chapter 13

#13.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15009 Los Lotes Avenue, Whittier, CA 90605

MOVANT: WILMINGTON TRUST, NA

EH ____

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jori Lynn Smith

Pro Se

Movant(s):

Wilmington Trust, National

Represented By
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:17-13395 Valecia Renee Knox

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5543 N. Mountain Dr., San Bernardino, CA 92407-5348

MOVANT: WILMINGTON TRUST, NATIONAL ASSOCIATION

EH__

Docket 34

Tentative Ruling:

Tentative Ruling:

12/17/19

Service: Proper
Opposition: Debtor

The parties to apprise the court on status of default and adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Valecia Renee Knox

Represented By
L. Tegan Rodkey

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:18-11432 Armando Guzman

Chapter 13

#2.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 29351 Summerset Drive, Menifee, California, 92586 UNDER 11 U.S.C. § 362

MOVANT: FREEDOM MORTGAGE CORPORATION

From: 12/3/19

EH__

Docket 53

***** VACATED *** REASON: ORDER ENTERED 12/4/19**

Tentative Ruling:

Tentative Ruling:

12/3/19

Service is Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §362(d)(1). GRANT relief from Rule 4001(a) stay. GRANT requests under paragraph 2. DENY alternative request under paragraph 13 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Armando Guzman

Represented By
Daniel King

Movant(s):

Freedom Mortgage Corporation

Represented By

**United States Bankruptcy Court
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Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

CONT... Armando Guzman

Chapter 13

Christina J Khil
Dane W Exnowski
Ashley Popowitz
John D Schlotter

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:18-20176 Garry Kenneth Frazier

Chapter 13

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 21851 Mohican Ave. Apple Valley CA 92307

MOVANT: FREEDOM MORTGAGE CORPORATION

From: 11/5/19, 12/3/19

EH ____

Docket 37

Tentative Ruling:

11/5/2019

Service is Proper
Opposition: Yes

Parties to apprise Court of status of arrears and adequate protection discussions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Garry Kenneth Frazier

Represented By
John F Brady

Movant(s):

Freedom Mortgage Corporation

Represented By
Christina J Khil
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
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Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:19-16072 Sara Rolston

Chapter 13

#4.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 BMW 2 Series 230i Coupe 2D

MOVANT: BMW BANK OF NORTH AMERICA

From: 11/19/19

EH__

Docket 22

Tentative Ruling:

11/19/2019

Service is Proper
Opposition: Yes

Movant to apprise the Court of the status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Sara Rolston

Represented By
Paul Y Lee

Movant(s):

BMW Bank of North America

Represented By
Cheryl A Skigin

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:19-17099 Malalage Malalasekera

Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 12862 Benson Avenue #7, Chino, CA 91710

MOVANT: LAKEVIEW LOAN SERVICING LLC

EH__

Docket 41

Tentative Ruling:

Tentative Ruling:

12/17/19

Service: Proper

Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶¶ 2, 3, and 12.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Malalage Malalasekera

Represented By
Kevin Tang

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:19-18187 Harris Development

Chapter 7

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: **VACANT LOTS (APN 206-164-026-5, 206-164-027-6, 206-164-028-7)**

MOVANT: SECURED INCOME GROUP, INC

Also #7

EH__

Docket 26

Tentative Ruling:

Tentative Ruling:

12/17/19

Per Debtor's schedules, it appears there is no equity in the subject property. As there is no reorganization in prospect, it appears relief from stay is warranted. Neither the Debtor's nor the Trustee's opposition provides a meaningful basis to undermine the lack of equity in the property as set forth in the Debtor's schedules.

APPEARANCE REQUIRED.

Party Information

Debtor(s):

Harris Development

Represented By
Kenneth D Sisco

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:19-18187 Harris Development

Chapter 7

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: **3591, 3569, 3553 & 3535 Tyco Dr., Riverside, Ca**

MOVANT: SECURED INCOME GROUP, INC

Also #6

EH__

Docket 27

Tentative Ruling:

Tentative Ruling:

12/17/19

Per Debtor's schedules, it appears there is no equity in the subject property. As there is no reorganization in prospect, it appears relief from stay is warranted. Neither the Debtor's nor the Trustee's opposition provides a meaningful basis to undermine the lack of equity in the property as set forth in the Debtor's schedules.

APPEARANCE REQUIRED.

Party Information

Debtor(s):

Harris Development

Represented By
Kenneth D Sisco

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:19-18937 Bounsong Saphanthong

Chapter 7

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2007 Porsche Boxster, VIN: WP0CA29817U711787

MOVANT: SANTANDER CONSUMER USA INC.

EH__

Docket 9

Tentative Ruling:

Tentative Ruling:

12/17/19

Service: Proper
Opposition: None

The Court is inclined to GRANT relief from stay pursuant to 11 U.S.C. § §362(d)(1) and 362(d)(2). GRANT relief from Rule 4001(a)(3) stay. GRANT request under ¶ 2. DENY alternative request under paragraph 11 as moot.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Bounsong Saphanthong

Represented By
Keith Q Nguyen

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:19-19127 Brenadette Schoby

Chapter 13

#9.00 Amended Motion (related document(s): 32 Notice of Motion and 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) real property located at 12862 Benson Avenue, #23, Chino, California 91711 filed by Creditor Gap Fund, LLC)

MOVANT: GAP FUND, LLC

EH__

Docket 34

***** VACATED *** REASON: ORDER ENTERED 12/12/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brenadette Schoby

Represented By
Dennis A Rasmussen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:19-20126 Debra Suzanne Towne

Chapter 13

#10.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real Property 11564 Pepper Street, Bloomington, CA 92316

MOVANT: DEBRA SUZANNE TOWNE

EH ____

Docket 21

Tentative Ruling:

TENTATIVE RULING:

12/17/19

Service: Proper
Opposition: None

The Court has reviewed the motion: notice acceptable and no opposition has been filed. Reviewing Debtor's evidence of good faith, Debtor has established a change in circumstances from the dismissal of her prior case in that her son no longer resides with her and will not be contributing to her, and she has filed this case based solely on her own income. As such, it appearing that Debtor has provided sufficient evidence to rebut the statutory presumption of 11 U.S.C. § 362(c)(3)(C)(i) that the case was not filed in good faith, the Court is inclined to GRANT the motion, CONTINUING the stay as to all creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Debra Suzanne Towne

Represented By
Paul Y Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

CONT... Debra Suzanne Towne

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:19-20193 Nery B. Mejia

Chapter 13

#11.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 25276 Drake Dr. Moreno Valley, CA 92553

MOVANT: NERY B MEJIA

EH__

Docket 8

Tentative Ruling:

TENTATIVE RULING:

12/17/19

Service: Proper
Opposition: None

The Court has reviewed the motion. The notice was acceptable, and no opposition has been filed. While Debtor has presented evidence his second case was dismissed by fault of his attorney. No evidence has been presented regarding his payment default of the first case.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Nery B. Mejia

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

6:19-20474 Victor Manuel Rosales

Chapter 13

#12.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 9215 Trovita Cir, Riverside, CA 92508

MOVANT: VICTOR MANUEL ROSALES

EH ____

Docket 8

Tentative Ruling:

TENTATIVE RULING:

12/17/19

Service: Proper
Opposition: None

The Court has reviewed the motion. The notice was proper, and no opposition has been filed. Debtor declares that his prior case was dismissed because he was injured at work and placed on light-duty. Debtor provided a statement of earning showing that he worked less than full-time in a two-week period; however, he declared he was injured for a longer period of time, about six months. Evidence here should establish the prior payment before injury, the reduced amount during injury, and the new amount of full pay, as well as evidence of injury.

The evidence provided by the Debtor does not rebut the presumption pursuant to 11 U.S.C § 362(c)(4) that the case was filed in good faith regarding Debtor being able to pay creditors in full. Thus, the Court is inclined to DENY the motion or continue for further evidence.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

11:00 AM

CONT... Victor Manuel Rosales

Chapter 13

Debtor(s):

Victor Manuel Rosales

Represented By
Marjorie M Johnson

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

2:00 PM

6:18-12807 G Hurtado Construction, Inc.

Chapter 11

#13.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference
And (2) Requiring Status Report

From: 5/8/18, 8/21/18, 9/11/18, 9/25/18, 10/30/18, 11/6/18, 12/18/18, 3/5/19,
3/26/19, 8/20/19, 10/29/19

EH__

Docket 18

***** VACATED *** REASON: CONTINUED TO 1/28/20 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

G Hurtado Construction, Inc.

Represented By
Michael Jones
Sara Tidd

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

2:00 PM

6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#14.00 CONT Status Conference Hearing RE: Complaint by William G Morschauser against Continental Capital LLC , Stephen Collias , Jesse Bojorquez , American Business Investments , Mohammed Abdizadeh

From: 11/13/19

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan

Stephen Collias

Represented By
Cara J Hagan

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

American Business Investments

Represented By
Lawrence J Kuhlman

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 17, 2019

Hearing Room 303

2:00 PM

CONT... Devore Stop A General Partners

Chapter 7

Autumn D Spaeth ESQ

Mohammed Abdizadeh

Pro Se

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

6:19-17978 Shontay Brown

Chapter 7

#1.00 CONT Pro se Reaffirmation Agreement Between Debtor and Mercedes-Benz
Financial Services USA LLC re 2015 Mercedes-Benz C300W

From: 12/11/19

EH__

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shontay Brown

Represented By
Michael Jay Berger

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

6:18-16783 Stephanie M Graham

Chapter 7

#2.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 40

Tentative Ruling:

12/18/19

No opposition has been filed.
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report and the applications of the associated professionals, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,250
Trustee Expenses: \$ 189.38

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Stephanie M Graham

Represented By
Christopher Hewitt

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

6:17-19176 AF Howlader, Inc.

Chapter 7

#3.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

Docket 36

Tentative Ruling:

12/18/19

No opposition has been filed.
Service was Proper.

The applications for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 560.52

Trustee Expenses: \$ 91.70

Franchise Tax Board: \$1,084.34

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

AF Howlader, Inc.

Represented By
Dina Farhat

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

6:18-20382 Gilberto Rodriguez and Grace Rodriguez

Chapter 7

#4.00 Motion to Disallow Claims (Claim 10 filed by Cavalry SPV I, LLC as Assignee of GE Money Bank/JC Penney)

Also #5

EH__

Docket 46

Tentative Ruling:

12/18/19

BACKGROUND:

On December 11, 2018, Gilberto & Grace Rodriguez ("Debtors") filed a Chapter 7 voluntary petition. On March 25, 2019, Debtors received their Chapter 7 discharge.

On February 12, 2019, Cavalry SPV I, LLC ("Cavalry I") filed a proof of claim for an unsecured claim in the amount of \$4,148.30 ("Claim 10"). On the same day, Cavalry SPV II, LLC filed a proof of claim for an unsecured claim in the amount of \$116.29 ("Claim 11"). On November 15, 2019, Trustee filed objections to Claim 10 and Claim 11, arguing that both claims were barred by the statute of limitations. The Court has not received opposition to either claim objection.

APPLICABLE LAW:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT... **Gilberto Rodriguez and Grace Rodriguez**

Chapter 7

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT... Gilberto Rodriguez and Grace Rodriguez

Chapter 7

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 10 is based on an overdue phone bill. Therefore, it appears that Claim 10 fits within the category established by CAL. CODE CIV. P. § 337, and that the statute of limitations is four years. The proof of claim identifies a last payment date of December 9, 2009. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 10 is unenforceable.

Claim 11 is based on an overdue phone bill. Therefore, it appears that Claim 10 fits within the category established by CAL. CODE CIV. P. § 337, and that the statute of limitations is four years. The proof of claim identifies a last payment date of October 13, 2008. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 11 is unenforceable.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT... Gilberto Rodriguez and Grace Rodriguez

Chapter 7

TENTATIVE RULING

The Court is inclined to SUSTAIN the objections and DISALLOW Claim 10 and Claim 11 in their entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Gilberto Rodriguez

Represented By
Patricia M Ashcraft - SUSPENDED BK -

Joint Debtor(s):

Grace Rodriguez

Represented By
Patricia M Ashcraft - SUSPENDED BK -

Movant(s):

Todd A. Frealy (TR)

Pro Se

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

6:18-20382 Gilberto Rodriguez and Grace Rodriguez

Chapter 7

#5.00 Motion to Disallow Claims (Claim 11 filed by Cavalry SPV II, LLC as Assignee of GE Money Bank/Mervyn's)

Also #4

EH__

Docket 48

Tentative Ruling:

12/18/19

BACKGROUND:

On December 11, 2018, Gilberto & Grace Rodriguez ("Debtors") filed a Chapter 7 voluntary petition. On March 25, 2019, Debtors received their Chapter 7 discharge.

On February 12, 2019, Cavalry SPV I, LLC ("Cavalry I") filed a proof of claim for an unsecured claim in the amount of \$4,148.30 ("Claim 10"). On the same day, Cavalry SPV II, LLC filed a proof of claim for an unsecured claim in the amount of \$116.29 ("Claim 11"). On November 15, 2019, Trustee filed objections to Claim 10 and Claim 11, arguing that both claims were barred by the statute of limitations. The Court has not received opposition to either claim objection.

APPLICABLE LAW:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT... **Gilberto Rodriguez and Grace Rodriguez**

Chapter 7

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT... Gilberto Rodriguez and Grace Rodriguez

Chapter 7

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

CAL. CODE CIV. P. § 337 (2016) provides a statute of limitations of four years for debts founded on written contracts, book accounts, accounts stated based upon account in writing, "balance of mutual, open and current account in writing," and rescission of written contract. Once the statute of limitations has passed, the claim is unenforceable. *See e.g., Guaranty Trust Co. v. United States*, 304 U.S. 126 (1938).

Claim 10 is based on an overdue phone bill. Therefore, it appears that Claim 10 fits within the category established by CAL. CODE CIV. P. § 337, and that the statute of limitations is four years. The proof of claim identifies a last payment date of December 9, 2009. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 10 is unenforceable.

Claim 11 is based on an overdue phone bill. Therefore, it appears that Claim 10 fits within the category established by CAL. CODE CIV. P. § 337, and that the statute of limitations is four years. The proof of claim identifies a last payment date of October 13, 2008. This is more than four years prior to the filing of the bankruptcy case, and, therefore, Claim 11 is unenforceable.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT... Gilberto Rodriguez and Grace Rodriguez

Chapter 7

TENTATIVE RULING

The Court is inclined to SUSTAIN the objections and DISALLOW Claim 10 and Claim 11 in their entirety.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Gilberto Rodriguez

Represented By
Patricia M Ashcraft - SUSPENDED BK -

Joint Debtor(s):

Grace Rodriguez

Represented By
Patricia M Ashcraft - SUSPENDED BK -

Movant(s):

Todd A. Frealy (TR)

Pro Se

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

6:17-18302 Richard Evans and Deborah Evans

Chapter 7

#6.00 Motion for Disallowance of Debtors' Claimed Homestead Exemption

EH__

Docket 65

***** VACATED *** REASON: CONTINUED TO 1/15/20 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Evans

Represented By
Lane K Bogard

Joint Debtor(s):

Deborah Evans

Represented By
Lane K Bogard

Movant(s):

Lynda T. Bui (TR)

Represented By
Erin P Moriarty

Trustee(s):

Lynda T. Bui (TR)

Represented By
Erin P Moriarty

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

6:18-17820 Maria Fabiola Marroquin

Chapter 7

#7.00 Motion re Objection to the Debtor's Claimed Exemption

EH__

Docket 33

Tentative Ruling:

12/18/19

BACKGROUND

On September 14, 2018, Maria Marroquin filed a Chapter 7 voluntary petition. Schedule A did not list any real property. On November 15, 2018, Debtor amended her schedules, listing certain real property located at 1816 Montara Way, San Jacinto, CA 92583 (the "Property"). The amended schedules stated: "Property belongs to spouse as his sole and separate property. In an abundance of caution, if Trustee determines community interest exists, debtor claims exemption § 704.730(2)." [Dkt. No. 11]. On Schedule C, Debtor stated that the value of her interest in the Property was \$0, and she claimed an exemption of \$0 pursuant to § 704.730. On December 26, 2018, Debtor obtained her discharge.

On March 19, 2019, Trustee filed a notice of assets. On September 25, 2019, Trustee filed a complaint (the "Complaint") against Roderico Marroquin ("Defendant") for: (1) avoidance and recovery of constructively fraudulent transfers; (2) avoidance and recovery of intentional fraudulent transfers; (3) avoidance and recovery of property of the bankruptcy estate; and (4) temporary restraining order and preliminary injunction. The Complaint includes an assertion that Debtor gifted her joint tenancy interest in the Property to Roderico Marroquin on July 5, 2016. On November 8, 2019, Defendant filed an answer to the Complaint.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT... **Maria Fabiola Marroquin**

Chapter 7

On November 15, 2019, Trustee filed an objection to Debtor's homestead exemption. Trustee argues that either that (a) Debtor has no ownership interest in the Property; and (b) Debtor's interest in the Property would only arise if Trustee avoided the fraudulent transfer to Defendant.

DISCUSSION

There are multiple clear issues with the instant motion. First, the Court notes that the operative Schedule C identifies an exemption amount of \$0. As a result, from a practical perspective, Debtor's claimed exemption does not actually exempt any dollar amount of interest in the Property. Additionally, the Court notes that the schedules appear to state that Debtor is only exempting the Property conditionally -- on the condition that Trustee determines a community property interest exists. Here, it does not appear that Trustee has determined that a community property interest exists, the condition precedent to claim the exemption has not occurred.

Nevertheless, the Court acknowledges that a successful objection to homestead exemption would be relevant to the extent that Debtor attempts to amend Schedule C in the future. Trustee's lone legal argument in support of the objection to the homestead exemption is that Debtor is precluded from claiming an exemption pursuant to 11 U.S.C. § 522(g). The problem, however, is that Trustee has merely filed a complaint to recover the Property, but that action has not been completed and it appears that Defendant intends to defend himself.

Trustee's motion asserts the following:

For the purposes of § 522(g), the term 'recovers' is liberally construed. It does not require a trustee to initiate or complete a formal avoidance action under one of the enumerated code sections. Rather, a trustee may 'recover' property by merely using the threat of avoidance powers to induce a debtor or transferee to return the property to the estate.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT... Maria Fabiola Marroquin

Chapter 7

(citation, emphasis, and quotation omitted).

The above quoted legal analysis is wholly inapplicable to the instant situation. The Court agrees that is logical to consider a trustee to have "recovered" property if the trustee induced the return of that property. Here, that has not happened. Trustee filed a complaint, Defendant filed an answer, the adversary action is pending, and the Property has not been returned. Quite simply, there has been no recovery of property and, therefore, reference to § 522(g) appears premature.

TENTATIVE RULING

The Court is inclined to DENY the motion as premature.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Maria Fabiola Marroquin

Represented By
Mark A Mellor

Movant(s):

Karl T Anderson (TR)

Represented By
Robert P Goe
Thomas J Eastmond

Trustee(s):

Karl T Anderson (TR)

Represented By
Robert P Goe

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT...

Maria Fabiola Marroquin

Thomas J Eastmond

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

6:19-18500 Alicia H Diaz

Chapter 7

#8.00 Motion to vacate dismissal

EH__

Docket 15

Tentative Ruling:

12/18/19

BACKGROUND

On September 26, 2019, Alicia Diaz ("Debtor") filed a Chapter 7 voluntary petition. On November 21, 2019, Debtor's case was dismissed for failure to file copies of pay stubs.

On November 26, 2019, Debtor filed a motion to vacate dismissal, stating that Debtor was a teacher who was not paid during the summer and, therefore, did not receive any wages in the sixty days prior to the petition being filed.

DISCUSSION

Debtor's caption page cites FED. R. BANKR. P. Rule 9023 and 11 U.S.C. § 105. The Court notes that FED. R. BANKR. P. Rule 9023 deals with new trials and, as such, is inapplicable here.

The proper legal provision for the subject motion is Local Rule 1017-2(c), which

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT... Alicia H Diaz
provides that:

Chapter 7

Any motion requesting that the dismissal of a case for failure to timely file a required document or for failure to appear at the meeting of creditors be vacated must include as exhibits to the motion all of the documents that were not timely filed and must be supported by a declaration under penalty of perjury establishing a sufficient explanation why the documents were not timely filed. *The motion may be ruled on without further notice or hearing pursuant to LBR 9013-1(q).*

(emphasis added). Here, the Court has reviewed the motion, and Debtor has provided adequate evidence that she did not have a paycheck received in the sixty-days prior to the filing of the instant bankruptcy case

TENTATIVE RULING

The Court is inclined to GRANT the motion, VACATING dismissal.

APPEARANCES WAIVED. Movant to lodge order within seven days.

Party Information

Debtor(s):

Alicia H Diaz

Represented By
Paul Y Lee

Movant(s):

Alicia H Diaz

Represented By
Paul Y Lee

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 18, 2019

Hearing Room 303

11:00 AM

CONT... Alicia H Diaz

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 304 Calendar**

Wednesday, December 18, 2019

Hearing Room 304

11:00 AM

6:17-15301 Jasper Stevens and Brenda Louise Murray Stevens

Chapter 7

#9.00 Debtor's Ex Parte Motion for a Stay Pending Appeal

EH ____

Docket 49

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jasper Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Joint Debtor(s):

Brenda Louise Murray Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Movant(s):

Jasper Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Brenda Louise Murray Stevens

Represented By
Gary S Saunders
Frank X Ruggier

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:18-16698 Eva C. Gonzalez

Chapter 7

#10.00 Trustee's Motion for an Order (1) Approving Sale of Real Property Free and Clear of Interests Under 11 U.S.C. section 363(f); (2) Approving the Proposed Overbid Procedure; (3) Authorizing Payments from Sale Proceeds Including Brokers' Commission

Also #11

EH__

Docket 34

Tentative Ruling:

12/18/19

BACKGROUND

On August 8, 2018, Eva Gonzalez ("Debtor") filed a Chapter 7 voluntary petition. Schedule A listed certain real property located at 1902 Penasco Grande, Perris, CA 92570 (the "Property"). Schedule A stated that Debtor owned the Property jointly with her ex-spouse. Schedule C claimed an exemption in the amount of \$75,000. Schedule D listed a secured claim in the amount of \$153,255.29. On November 19, 2018, Debtor received her discharge. Trustee subsequently employed bankruptcy counsel and a real estate broker.

On November 26, 2019, Trustee filed: (1) a motion for sale of the Property and related relief; and (2) a motion requiring Debtor to turn over the Property. Regarding the former, Trustee proposes to sell the Property to Nathalie Martin for \$290,000. Pursuant to the terms of the sale motion, the sale proceeds would be distributed as follows: (a) \$154,000 to Ocwen on account of a deed of trust; (b) \$28,314.40 to First Technology Federal Credit Union on account of Claim 1; (c) \$23,200 for costs of sale; (d) \$28,085.60 to Debtor; (e) \$30,452 to Debtor's ex-spouse; and (f) \$25,948 for the

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CONT... Eva C. Gonzalez
bankruptcy estate.

Chapter 7

The distribution of the potential sale proceeds in this case is somewhat unique due to a marital settlement agreement entered into between Debtor and her ex-spouse on September 11, 2017. The waterfall outlined in Trustee's motion proposes that the deed of trust and costs of sale be deducted from the sale proceeds, leaving \$112,800. Trustee then proposes to divide the resulting \$112,800 so that \$56,400 is attributable to Debtor's interest in the Property and \$56,400 is attributable to the interest of Debtor's ex-spouse. Regarding the former, Trustee proposes to pay Claim 1, and return the remainder to Debtor on account of her homestead exemption. Regarding the latter, Trustee's proposes to keep \$25,948 on account of the "Bankruptcy Estate's Claim against ex-spouse," while returning the remainder to the ex-spouse.

The marital settlement agreement, however, provides that "[t]he proceeds of the sale of the home shall be divided equally between the parties, minus any reimbursement owed to the other party." This provision appears to be in conflict with Trustee's proposed distribution. Trustee's distribution appears to assume that proceeds would be divided equally, with Debtor potentially holding a claim against her ex-spouse for reimbursements of certain pre-identified expenses. The quoted language of the marital settlement agreement, however, appears to provide for an automatic adjustment of the proceeds of the sale of the home to account for that reimbursement. When the Court applies that automatic adjustment to the sale proceeds here, the result is that \$30,425 of the sale proceeds are attributable to the interest of Debtor's ex-spouse, and the remaining \$82,348 of the sale proceeds are attributable to the interest of Debtor. Of the \$82,348 in proceeds attributable to the interest of Debtor, \$28,314.40 would be used to satisfy Claim 1, leaving \$54,033.60 to satisfy Debtor's homestead exemption. Because Debtor has claimed a homestead exemption in the amount of \$75,000, there would no remaining proceeds for the bankruptcy estate.

"Under the Code and California law, exemptions are to be construed broadly and liberally in favor of the debtor. Homestead exemptions, in particular, are to be construed liberally on behalf of the homesteader." *In re Rolland*, 317 B.R. 402, 413 (Bankr. C.D. Cal. 2004) (citation omitted). Because the marital settlement agreement provided for an automatic adjustment of the sale proceeds to account for certain required reimbursements, that adjustment presumably needs to occur *prior* to determining what amount of the proceeds are attributable to Debtor's interest and

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CONT... **Eva C. Gonzalez**

Chapter 7

what amount is attributable to Debtor's ex-spouse's interest. Applying this adjustment prior to dividing up the proceeds between Debtor and Debtor's ex-spouse appears to leave the bankruptcy estate with no unexempt sale proceeds. Because the entirety of the sale proceeds would then be distributed to Debtor, Debtor's ex-spouse, and secured creditors, it is not clear that Trustee has satisfied the business judgment test. *See, e.g., In re KVN Corp., Inc.*, 514 B.R. 1, 7 (B.A.P. 9th Cir. 2014) (*quoting* U.S. DOJ Exec. Office for U.S. Trs., Handbook for Chapter 7 Trustees at 4-16 (2012)) ("A trustee may sell assets only if the sale will result in a meaningful distribution to creditors.").

TENTATIVE RULING

Given the foregoing, the Court is inclined to CONTINUE the matter for Trustee to provide supplemental briefing on whether Debtor's claimed homestead exemption applies to the reimbursements required by the marital settlement agreement, or for express consent from Debtor to the proposed allocation.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Eva C. Gonzalez

Represented By
Luis Aguilar

Movant(s):

Todd A. Frealy (TR)

Represented By
Lovee D Sarenas

Trustee(s):

Todd A. Frealy (TR)

Represented By
Lovee D Sarenas

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6:18-16698 Eva C. Gonzalez

Chapter 7

#11.00 Motion for Turnover of Property -Trustees Motion for Order Requiring Debtor, and Persons Acting Under Her Direction for Immediate Turnover of a Residential Real Property of the Estate Pursuant to 11 U.S.C. § 542

Also #10

EH__

Docket 38

Tentative Ruling:

12/18/19

BACKGROUND

On August 8, 2018, Eva Gonzalez ("Debtor") filed a Chapter 7 voluntary petition. Schedule A listed certain real property located at 1902 Penasco Grande, Perris, CA 92570 (the "Property"). Schedule A stated that Debtor owned the Property jointly with her ex-spouse. Schedule C claimed an exemption in the amount of \$75,000. Schedule D listed a secured claim in the amount of \$153,255.29. On November 19, 2018, Debtor received her discharge. Trustee subsequently employed bankruptcy counsel and a real estate broker.

On November 26, 2019, Trustee filed: (1) a motion for sale of the Property and related relief; and (2) a motion requiring Debtor to turn over the Property. Regarding the former, Trustee proposes to sell the Property to Nathalie Martin for \$290,000. Pursuant to the terms of the sale motion, the sale proceeds would be distributed as follows: (a) \$154,000 to Ocwen on account of a deed of trust; (b) \$28,314.40 to First Technology Federal Credit Union on account of Claim 1; (c) \$23,200 for costs of sale; (d) \$28,085.60 to Debtor; (e) \$30,452 to Debtor's ex-spouse; and (f) \$25,948 for the bankruptcy estate.

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CONT... Eva C. Gonzalez

Chapter 7

The distribution of the potential sale proceeds in this case is somewhat unique due to a marital settlement agreement entered into between Debtor and her ex-spouse on September 11, 2017. The waterfall outlined in Trustee's motion proposes that the deed of trust and costs of sale be deducted from the sale proceeds, leaving \$112,800. Trustee then proposes to divide the resulting \$112,800 so that \$56,400 is attributable to Debtor's interest in the Property and \$56,400 is attributable to the interest of Debtor's ex-spouse. Regarding the former, Trustee proposes to pay Claim 1, and return the remainder to Debtor on account of her homestead exemption. Regarding the latter, Trustee's proposes to keep \$25,948 on account of the "Bankruptcy Estate's Claim against ex-spouse," while returning the remainder to the ex-spouse.

The marital settlement agreement, however, provides that "[t]he proceeds of the sale of the home shall be divided equally between the parties, minus any reimbursement owed to the other party." This provision appears to be in conflict with Trustee's proposed distribution. Trustee's distribution appears to assume that proceeds would be divided equally, with Debtor potentially holding a claim against her ex-spouse for reimbursements of certain pre-identified expenses. The quoted language of the marital settlement agreement, however, appears to provide for an automatic adjustment of the proceeds of the sale of the home to account for that reimbursement. When the Court applies that automatic adjustment to the sale proceeds here, the result is that \$30,425 of the sale proceeds are attributable to the interest of Debtor's ex-spouse, and the remaining \$82,348 of the sale proceeds are attributable to the interest of Debtor. Of the \$82,348 in proceeds attributable to the interest of Debtor, \$28,314.40 would be used to satisfy Claim 1, leaving \$54,033.60 to satisfy Debtor's homestead exemption. Because Debtor has claimed a homestead exemption in the amount of \$75,000, there would no remaining proceeds for the bankruptcy estate.

"Under the Code and California law, exemptions are to be construed broadly and liberally in favor of the debtor. Homestead exemptions, in particular, are to be construed liberally on behalf of the homesteader." *In re Rolland*, 317 B.R. 402, 413 (Bankr. C.D. Cal. 2004) (citation omitted). Because the marital settlement agreement provided for an automatic adjustment of the sale proceeds to account for certain required reimbursements, that adjustment presumably needs to occur *prior* to determining what amount of the proceeds are attributable to Debtor's interest and what amount is attributable to Debtor's ex-spouse's interest. Applying this adjustment

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prior to dividing up the proceeds between Debtor and Debtor's ex-spouse appears to leave the bankruptcy estate with no unexempt sale proceeds. Because the entirety of the sale proceeds would then be distributed to Debtor, Debtor's ex-spouse, and secured creditors, it is not clear that Trustee has satisfied the business judgment test. *See, e.g., In re KVN Corp., Inc.*, 514 B.R. 1, 7 (B.A.P. 9th Cir. 2014) (*quoting* U.S. DOJ Exec. Office for U.S. Trs., Handbook for Chapter 7 Trustees at 4-16 (2012)) ("A trustee may sell assets only if the sale will result in a meaningful distribution to creditors.").

TENTATIVE RULING

Given the foregoing, the Court is inclined to CONTINUE the matter for Trustee to provide supplemental briefing on whether Debtor's claimed homestead exemption applies to the reimbursements required by the marital settlement agreement, or for express consent from Debtor to the proposed allocation.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Eva C. Gonzalez

Represented By
Luis Aguilar

Movant(s):

Todd A. Frealy (TR)

Represented By
Lovee D Sarenas

Trustee(s):

Todd A. Frealy (TR)

Represented By
Lovee D Sarenas

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6:13-16964 Narinder Sangha

Chapter 7

Adv#: 6:13-01171 Schrader v. Sangha

#12.00 CONT Motion for Reconsideration of Memorandum Decision Granting In Part and Denying In Part Motion for Summary Adjudication on Remand

From: 12/4/19

EH__

Docket 330

***** VACATED *** REASON: ORDER ENTERED 12/16/19**

Tentative Ruling:

12/4/2019

BACKGROUND

On April 18, 2013, Narinder Sangha ("Defendant") filed a Chapter 7 voluntary petition. On April 25, 2013, Charles Schrader ("Plaintiff") filed an adversary complaint against Defendant for non-dischargeability pursuant to 11 U.S.C. § 523(a) (6).

On August 12, 2013, the Court entered its first scheduling order, directing the parties to complete mediation by October 16, 2013; that deadline was ultimately continued to October 29, 2013. On December 4, 2013, the Court entered a second scheduling order, directing the parties to complete mediation by January 31, 2014.

On August 7, 2014, the Court entered an order granting Plaintiff's motion for summary judgment, and a corresponding judgment. This judgment was appealed, ultimately being vacated and remanded by the Ninth Circuit on March 10, 2017. On April 19, 2017, Plaintiff filed a renewed motion for summary judgment which, after

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several continuances, was ultimately granted in part and denied in part on March 15, 2019 (the "Opinion").

Since the Court issued the Opinion granting partial summary judgment to Plaintiff, the parties have engaged in several discovery disputes, with Defendant switching counsel on multiple occasions during the course of the case. On May 3, 2019, Defendant filed a motion to reopen discovery. As noted by the Court on the hearing of May 22, 2019, the Court had never actually set a discovery deadline, and, therefore, the Court denied the motion. Based upon the discussion with parties at the hearings of May 22, 2019, the Court entered a scheduling order on May 24, 2019. The scheduling order set a discovery deadline of July 31, 2019, and a deadline to file dispositive motions of August 23, 2019.

On July 10, 2019, the Court heard Defendant's (then *pro se*) motion to serve additional discovery requests. That motion was denied for the reasons stated on the record at the hearing of July 10, 2019.

On July 30, 2019, Defendant filed a motion to extend discovery cutoff and related dates. On September 3, 2019, the Court granted Defendant's motion to extend the discovery cutoff to the limited extent of clarifying that discovery need only be propounded, not completed, by July 31, 2019. On October 16, 2019, Defendant filed a motion for sanctions against Plaintiff, which the Court ultimately denied.

On October 28, 2019, Defendant filed a motion to reconsider the Opinion, arguing that: (1) the underlying 2011 state court judgment was void for failure to properly plead damages; (2) issue preclusion was inappropriate because certain affirmative defenses were neither actually litigated nor necessarily decided; and (3) public policy is not served by application of issue preclusion. On November 12, 2019, Plaintiff filed his opposition. On November 27, 2019, Defendant filed his reply. In the reply, Defendant concedes that Plaintiff's argument, that the 2011 state court judgment was not void, is correct, and thus withdrew that argument. Defendant also withdrew his third argument to the extent it "was based on the argument that Judgment was void."

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DISCUSSION

As a preliminary matter, the Court addresses Plaintiff's argument that the instant motion was untimely for failure to comply with this Court's scheduling order. The Court's scheduling order entered May 24, 2019, states that the last day for pre-trial motions to be filed and served is August 23, 2019. Plaintiff, characterizing the instant motion as a pre-trial motion, argues that the motion is untimely pursuant to the Court's scheduling order. Defendant argues that the instant motion is not a pre-trial motion, and, as such, is not untimely pursuant to the Court's scheduling order.

The Court agrees with Defendant's definition of the term pre-trial motion. The instant motion, as a motion which seeks reconsideration of an already entered order or judgment, is more properly characterized as a post-trial (or post-hearing) motion. While the motion, if granted, would affect the scope of the future trial, its direct aim, modifying a previous Court order, is not within the scope of the Court's form scheduling order.

Turning to the legal arguments raised, FED. R. CIV. P. Rule 60(b)(1), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, states:

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect

As noted by Defendant, the Ninth Circuit has previously held that errors of law fit within the scope of FED. R. CIV. P. Rule 60(b)(1). *See, e.g., Kingvision Pay-Per-View Ltd. v. Lake Alice Bar*, 168 F.3d 347, 350 ("Because the words 'mistake' and

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'inadvertence' are not so limited, they may include mistake and inadvertence by the judge."). The Ninth Circuit's conclusion, however, is not universally accepted across circuits. *See, e.g., Silk v. Sandoval*, 435 F.2d 1266 (1st Cir. 1971); *Swam v. United States*, 327 F.2d 431 (7th Cir. 1964) (both concluding that judicial legal error does not fit within the scope of Rule 60(b)(1)).

The Sixth Circuit previously wrote the following in discussing the split of authority regarding whether judicial legal error falls within the scope of Rule 60(b)(1):

We need not choose between these conflicting views at this time. This is so because, regardless of whether we determine legal error comes within Rule 60(b)(1), the vast majority of courts that have concluded that legal error comes within the meaning of Rule 60(b)(1) have also determined that, in using the rule in this manner, the moving party must make his or her motion within the time limits for appeal. A motion under Rule 60(b) cannot be used to avoid the consequences of a party's decision to settle the litigation or to forego an appeal from an adverse ruling. Generally speaking a party who makes an informed choice as to a particular course of action will not be relieved of the consequences when it subsequently develops that the choice was unfortunate.

Steinhoff v. Harris, 698 F.2d 270, 275 (6th Cir. 1983) (quotations omitted) (citing *Sampson v. Radio Corp. of Am.*, 434 F.2d 315 (2nd Cir. 1970); *Hoffman v. Celebrezze*, 405 F.2d 833 (8th Cir. 1969); *Gila River Ranch, Inc. v. United States*, 368 F.2d 354 (9th Cir. 1966); *Schildhaus v. Moe*, 335 F.2d 529 (2nd Cir. 1964); 7 MOORE, *Federal Practice* ¶ 60.22[2], [3] (2nd ed. 1948 & Supp. 1981); *see also Hill v. McDermott, Inc.*, 827 F.2d 1040 (5th Cir. 1987).

As noted in the block quotation above, the Ninth Circuit previously stated, in *Gila River Ranch, Inc. v. United States*, 368 F.2d 354, 357 (9th Cir. 1966), that "under Rule 60(b)(1) the trial judge can, within a reasonable time not exceeding the time for appeal, hold a rehearing and change his decision." The *Gila River Ranch* decision has not been overturned. In 2005, the Ninth Circuit

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CONT... **Narinder Sangha**

Chapter 7

reaffirmed the validity of the *Gila River Ranch* holding:

Rule 60(b) authorizes relief from judgments for "mistake, inadvertence, surprise, or excusable neglect." The "mistakes" of judges may be remedied under this provision, which also encompasses mistakes in the application of the law. A trial judge may, within a reasonable time, *but not exceeding the time for appeal*, hold a rehearing under Rule 60(b) and change the award.

...

To be timely, Phonometrics' Rule 60 motion must have been filed within the 30-day window following the entry of the judgment awarding attorneys' fees.

Phonometrics, Inc. v. Hospitality Franchise Sys., Inc., 2005 WL 663414 at *1 (9th Cir. 2005) (citations omitted) (emphasis in original).

Therefore, pursuant to the caselaw cited above, Defendant's Rule 60(b)(1) motion premised upon judicial legal error is untimely as having been filed more than seven months after the Opinion was entered.

Tentative Ruling:

The Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

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CONT... Narinder Sangha

Chapter 7

Debtor(s):

Narinder Sangha

Represented By
Deepalie M Joshi

Defendant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Charity J Manee

Movant(s):

Narinder Sangha

Represented By
Deepalie M Joshi
Charity J Manee

Plaintiff(s):

Charles Edward Schrader

Pro Se

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#13.00 CONT Motion by Revere Financial Corporation, as Liquidating Trustee of the Bankruptcy Estate of Douglas J. Roger, to Enforce Settlement

From: 11/6/19

Also #14

EH ____

Docket 149

***** VACATED *** REASON: CASE DISMISSED 12/2/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Movant(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr
Sue-Ann L Tran

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr
Sue-Ann L Tran

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CONT... Douglas Jay Roger

Chapter 7

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

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6:13-27611 Douglas Jay Roger

Chapter 7

Adv#: 6:16-01199 Revere Financial Corporation v. Bank of Southern California, N.A.

#14.00 CONT Status Conference RE: [40] Amended Complaint (Second) by Franklin R Fraley Jr on behalf of Revere Financial Corporation against Bank of Southern California, N.A.. (RE: related document(s)1 Adversary case 6:16-ap-01199. Complaint by Revere Financial Corporation against Bank of Southern California, N.A.. (12 (Recovery of money/property - 547 preference)),(14 (Recovery of money/property - other))

From: 8/28/19, 10/9/19, 11/6/19

Also #13

EH__

Docket 40

***** VACATED *** REASON: CASE DISMISSED 12/2/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Jay Roger

Represented By
Summer M Shaw
Marc C Forsythe

Defendant(s):

Bank of Southern California, N.A.

Represented By
Kathryn M.S. Catherwood

Plaintiff(s):

Revere Financial Corporation

Represented By
Franklin R Fraley Jr
Sue-Ann L Tran

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CONT... Douglas Jay Roger

Chapter 7

Trustee(s):

Helen R. Frazer (TR)

Represented By
Arjun Sivakumar
Carmela Pagay
Franklin R Fraley Jr

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6:18-17663 Stephen Richard Morales

Chapter 7

Adv#: 6:18-01242 Forniss et al v. Morales et al

#15.00 Order to show cause why case should not be dismissed or sanctions issued

Also #16

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Richard Morales

Represented By
Todd L Turoci

Defendant(s):

Stephan Richard Morales

Pro Se

Diane Forniss Morales

Pro Se

Joint Debtor(s):

Diane Forniss Morales

Represented By
Todd L Turoci

Plaintiff(s):

Stephen Forniss

Represented By
Fritz J Firman

Alfonso Forniss

Represented By
Fritz J Firman

Trustee(s):

Karl T Anderson (TR)

Pro Se

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6:18-17663 Stephen Richard Morales

Chapter 7

Adv#: 6:18-01242 Forniss et al v. Morales et al

#16.00 CONT Status Conference RE: [1] Adversary case 6:18-ap-01242. Complaint by Steven John Forniss against Stephan Richard Morales, Diane Forniss Morales, Todd Turoci. 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)) (Firman, Fritz)

From: 3/6/19, 3/13/19, 5/22/19, 8/28/19, 12/4/19

Also #15

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Richard Morales

Represented By
Todd L Turoci

Defendant(s):

Stephan Richard Morales

Pro Se

Diane Forniss Morales

Pro Se

Joint Debtor(s):

Diane Forniss Morales

Represented By
Todd L Turoci

Plaintiff(s):

Stephen Forniss

Represented By
Fritz J Firman

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CONT... **Stephen Richard Morales**
Alfonso Forniss

Represented By
Fritz J Firman

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, December 18, 2019

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6:17-18617 Christy Carmen Hammond

Chapter 7

#17.00 Motion to Disallow Homestead Exemption

Also #18

EH__

Docket 49

Tentative Ruling:

12/18/19

BACKGROUND

On October 16, 2017, Christy Hammond ("Debtor") filed a Chapter 7 voluntary petition. Among the assets of the estate is certain real property located at 5918 Ridgegate Dr., Chino Hills, CA 91709 (the "Property"). On January 29, 2018, Debtor obtained a discharge.

On April 23, 2018, the Chapter 7 Trustee filed a notice of assets, subsequently employing an attorney, and a real estate broker. Debtor opposed Trustee's request to hold a real estate broker, and the Court approved the application after a hearing held on March 27, 2019.

On October 16, 2019, Trustee filed (1) a motion for turnover of property (the "Turnover Motion"); and (2) an adversary complaint against Kenneth Hammond seeking turnover of property from Debtor's non-filing spouse. On October 30, 2019, Debtor filed an opposition to the Turnover Motion, while also increasing her homestead exemption to \$175,000.

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CONT... Christy Carmen Hammond

Chapter 7

On November 20, 2019, Trustee filed an objection to Debtor's claimed homestead exemption. Trustee argues that Debtor has not established that she is entitled to claim the increased homestead exemption set forth in CAL. CODE CIV. P. § 704.730(a)(3)(B). On December 4, 2019, Debtor filed her opposition. Debtor argues that Trustee has the burden of proof in objecting to the claimed homestead exemption, and that Trustee has not met this burden. Alternatively, Debtor argues that she has adequately established her entitlement to the \$175,000 homestead exemption. Specifically, Debtor argues that the increased homestead exemption is based on the alleged disability of her non-filing spouse, Kenneth Hammond, who served in the U.S. Navy. On December 11, 2019, Trustee filed a reply and a variety of evidentiary objections.

DISCUSSION

I. Burden of Proof

As a preliminary matter, the parties disagree on the burden of proof when a Trustee files an objection to a claimed exemption. FED. R. BANKR. P. Rule 4003(c) states: "In any hearing under this rule, the objecting party has the burden of proving that the exemptions are not properly claimed." Trustee argues that the Supreme Court, however, held in the case of *Raleigh v. Ill. Dep't of Revenue*, 530 U.S. 15 (2000) that the burden of proof should be determined by reference to state law. In *Raleigh*, the Supreme Court was considering whether the burden of proof, in the context of a claim objection, is determined by reference to state law. Citing cases dating back to before World War 2, the Supreme Court stated that "we have long held the burden of proof to be a 'substantive' aspect of a claim. That is, the burden of proof is an essential element of the claim itself; one who asserts a claim is entitled to the burden of proof that normally comes with it." *Id.* at 20-21.

The Supreme Court also stated:

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Congress of course may do what it likes with entitlements in bankruptcy, but there is no sign that Congress meant to alter the burdens of production and persuasion on tax claims. The Code in several places, to be sure, establishes particular burdens of proof. But the Code makes no provision for altering the burden on a tax claim, and its silence says that no change was intended.

Id. at 21-22 (citation omitted). The above excerpt ended with footnote 2, which states:

The legislative history indicates that the burden of proof on the issue of establishing claims was left to the Rules of Bankruptcy Procedure. The Bankruptcy Rules are silent on the burden of proof for claims; while Federal Rule of Bankruptcy Procedure 3001(f) provides that a proof of claim (the name for the proper form for filing a claim against a debtor) is "prima facie evidence of the validity and amount of the claim," this rule does not address the burden of proof when a trustee disputes a claim. The Rules thus provide no additional guidance.

Id.

Thus, the Supreme Court made it clear that Congress was permitted to preempt state law burdens in the drafting of the Bankruptcy Code. Specifically, the Supreme Court cited 11 U.S.C. §§ 362(g), 363(o), 364(d)(2), 547(g), and 1129(d) as examples of instances where the Code specifically articulates a burden of proof. While under principles of preemption it is clear that Congress may delineate an applicable burden in the Bankruptcy Code, in the context of an objection to a homestead exemption, it is the Federal Rules of Bankruptcy Procedure, not the Bankruptcy Code itself, which articulates a burden of proof. As Trustee points out in its reply brief, 28 U.S.C. § 2072 provides that federal rules of procedure "shall not abridge, enlarge or modify any substantive right." Given that the Supreme Court has determined that a burden of proof is substantive, it would appear that a provision in the Federal Rules of

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Bankruptcy Procedure could not alter the applicable burden of proof absent a Code provision providing for such alteration.

After 2000, a number of Court have addressed the issue of whether *Raleigh* dictates that FED. R. BANKR. P. Rule 4003(c) is invalid when a debtor exempts property under state law, and state law identifies its own burden for claiming that exemption. In California, CAL. CODE CIV. P. § 703.580(b) provides that the party claiming the exemption has the burden of proof. Therefore, in California, the applicable state law provision is in conflict with FED. R. BANKR. P. Rule 4003(c).

The first case to contain an extended analysis of this conflict, post-*Raleigh*, appears to be *In re Greenfield*, 289 B.R. 146 (Bankr. S.D. Cal. 2003). *In re Greenfield* noted that "the propriety of Rule 4003(c) in a case such as this has been called into question." *Id.* at 148. Ultimately, *In re Greenfield* stated the following:

The court in *Raleigh* did indeed look to state law in placing the burden. However, *Raleigh* dealt with a situation – an objection to a proof of claim – for which neither the Bankruptcy Code nor the Bankruptcy Rules provide a burden of proof . . .

Contrarily, in the case of exemptions and objections thereto, the Rules do provide a specific and clear allocation of the burden – Rule 4003(c). Accordingly, the *Raleigh* case may not apply.

Id. at 149.

Then, in 2005, a concurring opinion at the Bankruptcy Appellate Panel, which like *In re Greenfield* did not actually reach a conclusion on the issue, appeared

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to lean the opposite direction:

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There is reason to doubt the validity of the allocation, in Federal Rule of Bankruptcy Procedure 4003(c), of the burden of proof to the party objecting to a claim of exemption, especially an exemption claimed under state law.

At least with respect to state-law exemptions, the better view, after the Supreme Court's decision in *Raleigh v. Ill. Dep't of Revenue*, 530 U.S. 15, 120 S.Ct. 195, 147 L.Ed.2d 13 (2000), may be that, if challenged, the debtor has the burden to establish entitlements to a claim of exemption under state law by the same standard that applies in the courts of that state. If so, then the objecting party does not properly bear the burden of proof.

The post-*Raleigh* view necessarily calls into question the validity of Rule 4003(c), which expressly allocates the burden of proof on claims of exemption: "the objecting party has the burden of proving that the exemptions are not properly claimed."

The basic problem is that Rule 4003(c) suffers from being a procedural rule that attempts to accomplish a substantive task, it being settled by *Raleigh* that a burden of proof in bankruptcy is substantive and generally is regarded as an essential element of a claim itself.

In re Davis, 323 B.R. 732, 741 (B.A.P. 9th Cir. 2005) (Judge Klein, concurring opinion).

The excerpts from *In re Greenfield* and *In re Davis* reveal the operative legal question – is FED. R. BANKR. P. Rule 4003(c) invalid as a procedural rule which

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modifies substantive rights? Judge Klein, ten years after his concurrence in *In re Davis*, wrote a well-researched opinion in *In re Tallerico* supplementing his concurrence. Several courts, primarily in California, have agreed with his position. *See, e.g., In re Diaz*, 547 B.R. 329 (B.A.P. 9th Cir. 2016); *In re Williams*, 556 B.R. 456 (Bankr. C.D. Cal. 2016); *In re Vaughn*, 558 B.R. 897 (Bankr. D. Ala. 2016); *In re Pashenee*, 531 B.R. 834 (Bankr. E.D. Cal. 2015). Other courts have concluded that FED. R. BANKR. P. Rule 4003(c) is still valid despite *Raleigh*. *See, e.g., In re Nicholson*, 435 B.R. 622 (B.A.P. 9th Cir. 2010) (partially abrogated on other grounds); *Matter of Hoffman*, 605 B.R. 560 (Bankr. N.D. Ga. 2019); *In re Weatherspoon*, 605 B.R. 472 (Bankr. S.D. Ohio 2019). Many courts have offered extended analysis of the issue without arriving at a conclusion. *See, e.g., In re Aubry*, 558 B.R. 333 (Bankr. C.D. Cal. 2016) (Judge Kwan) (expressing skepticism that FRBP 4003(c) is invalid); *In re Gilman*, 544 B.R. 184 (Bankr. C.D. Cal. 2016) (Judge Kaufman) (stating that caselaw invalidating FRBP 4003(c) was "compelling," but acknowledging that "there is no binding authority that explicitly changes the burden allocation set forth in *Carter* or FRBP 4003(c)"); *In re Thiem*, 443 B.R. 832 (Bankr. D. Ariz. 2011) (noting dispute and presuming FRBP 4003(c) still valid for purposes of opinion). Most commonly, courts simply assume that FED. R. BANKR. P. Rule 4003(c) is still valid, possibly unaware of a split in caselaw on the issue. *See, e.g., In re Hanson*, 903 F.3d 793 (8th Cir. 2018); *In re Nuara*, 607 B.R. 116 (Bankr. E.D.N.Y. 2019); *In re Haworth*, 604 B.R. 394 (Bankr. D. Idaho 2019). Every Circuit Court, including the Ninth Circuit, that has addressed the burden of proof when an objection to a claimed exemption is filed, has continued to refer to FED. R. BANKR. P. Rule 4003(c) post-*Raleigh*. *See, e.g., In re Lee*, 889 F.3d 639 (9th Cir. 2018) ("Moreover, Rule 4003(c) provides that in any hearing under the rule, 'the objecting party has the burden of proving that the exemptions are not properly claimed.'"); *In re Hanson*, 903 F.3d 793 (8th Cir. 2018) ("It is the trustee's burden to demonstrate that a claimed exemption is improper."); *In re Fehmel*, 2010 WL 1287618 (5th Cir. 2010); *In re Hodes*, 402 F.3d 1005 (10th Cir. 2005) ("The objecting party bears the burden of proof on an objection to a claimed exemption.").

Judge Klein, in *In re Tallerico*, 532 B.R. 774 (Bankr. E.D. Cal. 2015), after an extended historical discussion, concluded that "Rule 4003(c) offends the Bankruptcy Rules Enabling Act with respect to state-law exemptions and must give way to the state statute." This conclusion, that FED. R. BANKR. P. Rule 4003(c) constitutes an impermissible modification of substantive rights, carries significant logical appeal given its simplicity and given the plain language of

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28 U.S.C. § 2072.

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The Court, however, cannot escape certain countervailing considerations. First, in *Raleigh*, the Supreme Court quickly turned to the Federal Rules of Bankruptcy Procedure to determine whether a burden of proof was articulated. 530 U.S. 15 at 22, n.2 ("The legislative history indicates that the burden of proof on the issue of establishing claims was left to the Rules of Bankruptcy Procedure. The Bankruptcy Rules are silent on the burden of proof for claims; while Federal Rule of Bankruptcy Procedure 3001(f) provides that a proof of claim (the name for the proper form for filing a claim against a debtor) is 'prima facie evidence of the validity and amount of the claim,' this rule does not address the burden of proof when a trustee disputes a claim. The Rules thus provide no additional guidance."). The Supreme Court, by writing "that the burden of proof on the issue of establishing claims was left to the Rules of Bankruptcy Procedure," acknowledges that Congress may delegate its authority to set the burden of proof. Indeed, delegation of Congressional authority when an "intelligible principle" is articulated has long been a feature of the American government. *See, e.g., Mistretta v. U.S.*, 488 U.S. 361, 372 (1989) ("Applying this 'intelligible principle' test to congressional delegations, our jurisprudence has been driven by a practical understanding that in our increasingly complex society, replete with ever changing and more technical problems, Congress simply cannot do its job absent an ability to delegate power under broad general directives."). As *Mistretta* makes clear, the Supreme Court rarely interferes with the exercise of delegated legislative authority. *Id.* at 373 ("[W]e have upheld, again without deviation, Congress' ability to delegate power under broad standards.").

This observation finds support in a Bankruptcy Appellate Panel decision from 2010:

As the Supreme Court has recognized, bankruptcy exemptions are authorized and regulated by Congress in § 522 of the Bankruptcy Code. Although state law may control the 'nature and extent' of state law exemptions, subject to the limitations set forth in the Bankruptcy Code, the manner in which such exemptions are to be claimed, set apart, and awarded, is regulated and determined by the federal courts, as a matter

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of procedure in the court of bankruptcy administration, as to which they are not bound or limited by state decisions or statutes. Because Congress has regulated the allowance of exemptions in bankruptcy, the Code and Rules may alter burdens of proof relating to exemptions, even if those burdens are part of the "substantive" rights under state law. In implementing the provisions of § 522(l), Rule 4003(c) places the burden of proof on the objecting party.

In re Nicholson, 435 B.R. 622, 633 (B.A.P. 9th Cir. 2010) (partially abrogated on other grounds). In support of the above excerpt, *In re Nicholson* cited the Supreme Court's statement that "Congress of course may do what it likes with entitlements in bankruptcy," and the Advisory Committee Note to Rule 4003(c) which states that "This rule is derived from § 522(l) of the Code." *Id.*; see also 9 COLLIER'S ON BANKRUPTCY ¶ 4003.04 (16th ed. 2019) ("[T]he better-reasoned decisions recognize that the rule simply reflects the burden placed on an objector by section 522(l), a federal statute that overrides state law on this issue under the Supremacy Clause.").

While the Court does not conclude that the approach represented by *In re Nicholson* is the better-reasoned approach, for multiple reasons outlined below, the Court concludes that the presence of a legitimate argument that FED. R. BANKR. P. Rule 4003(c) is still valid forces this Court to continue applying the rule.

First, the Supreme Court drafts the Federal Rules of Bankruptcy Procedure. *Raleigh* was decided in 2000, so the Supreme Court has had nineteen years, during which time there have been many rule changes, to modify or eliminate FED. R. BANKR. P. Rule 4003(c). It has not done so. Additionally, the Supreme Court, in *Raleigh*, stated that the burden of proof has long been considered "substantive" --- citing pre-World War 2 cases in support of the proposition. Those cases long predate FED. R. BANKR. P. Rule 4003(c), yet the Supreme Court drafted the rule despite the presence of those cases. Given these observations and the ambiguity regarding the continuing validity of FED. R. BANKR. P. Rule 4003(c), this Court would be remiss to invalidate a binding rule of bankruptcy procedure on the basis that the Supreme Court violated its own caselaw. This is especially so when, to this Court's knowledge, every Court of

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Appeal that has cited the burden of proof for an objection to a homestead exemption has continued to refer to FED. R. BANKR. P. Rule 4003(c) even after *Raleigh*.

Rather, this Court agrees with the analysis set forth in *In re Weatherspoon*, 605 B.R. 472, 482 (Bankr. S.D. Ohio 2019):

Although *Raleigh* was decided in the context of an objection to a proof of claim and did not involve Bankruptcy Rule 4003(c), some bankruptcy courts have questioned the continued viability of the rule in light of the Supreme Court's holding in that case. These cases are well-reasoned, and Ohio courts place the burden of proof on the party claiming the exemption. Thus, it could be argued that here the Debtor should shoulder the burden of proving the exemption was properly claimed. But even if decisions such as *Tallerico* are correctly decided, it is not for this Court to determine that *Raleigh* overruled *Zingale* by implication; instead, it must follow *Zingale* until the Supreme Court or the Sixth Circuit overrules it.

If trial courts disregard binding precedent and binding legal provisions on the basis that they have been implicitly overruled, especially when there are legitimate arguments to the contrary, judicial hierarchy and the entire doctrine of legal precedent would be undermined.

II. Merits

Here, as stated by Trustee, CAL. CODE CIV. P. § 704.730(a)(3)(B) provides a \$175,000 homestead exemption for "[a] person physically or mentally disabled who as a result of that disability is unable to engage in substantial gainful employment." Regarding the preliminary requirement, whether her husband is disabled, Trustee states "Schedules I and J do not give any indication that Mr. Hammond was disabled as of the Petition Date. . . Debtor included

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unauthenticated documents and inadmissible hearsay testimony that Mr. Hammond is disabled currently, but no evidence that suggests he was disabled on October 17, 2017." [Dkt. No. 49, pgs. 4-5]. This line of argument is insufficient given that the Court has concluded it should assign Trustee the burden of proof.

Trustee's primarily focuses on the second requirement – whether Mr. Hammond's disability renders him unable to engage in substantial gainful employment. Citing *In re Gilman*, 544 B.R. 184, 199 (Bankr. C.D. Cal. 2016), Trustee argues the following:

The *Gilman* court disallowed the enhanced disability exemption because even though the debtor had established she was disabled, the court found she earned or had the capacity to earn at least \$1,000 per month. Similarly, this Court can assess whether, on the Petition Date, Mr. Hammond had the ability to earn at least \$1,170 per month. Schedule I reflects a gross income of \$1,000 per month for Mr. Hammond, but the only evidence in support of this figure is Schedule I. It is very possible that he was or could have been earning at least \$170 more per month. Also, there is reference in the hearsay testimony attached to the Turnover Opposition that Mr. Hammond is or was pursuing further education, which would presumably increase his earning capacity.

[Dkt. No. 49, pg. 6]. As pointed out in the opposition, this argument falls short of meeting Trustee's burden of proof.

Nevertheless, Trustee's argument raises a legitimate question regarding Debtor's eligibility to claim the enhanced homestead exemption under CAL. CODE CIV. P. § 704.730(a)(3)(B). Specifically, the Court notes that Mr. Hammond's income is close to the threshold used in *In re Gilman* to determine substantial gainful activity, and it appears Mr. Hammond may have been enrolled in educational courses that may have caused a temporary

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reduction in earning potential unrelated to his disability.

TENTATIVE RULING

The Court is inclined to set an evidentiary hearing to determine whether Mr. Hammond had the capacity to engage in substantial gainful employment as of the petition date.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Christy Carmen Hammond

Represented By
Eric C Morris

Movant(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

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#18.00 CONT Motion for Order Compelling Debtor to Vacate and Turnover Real Property

From: 11/13/19

Also #17

EH ____

Docket 40

Tentative Ruling:

11/13/19

BACKGROUND

On October 16, 2017, Christy Hammond ("Debtor") filed a Chapter 7 voluntary petition. Among the assets of the estate is certain real property located at 5918 Ridgegate Dr., Chino Hills, CA 91709 (the "Property"). On January 29, 2018, Debtor obtained a discharge.

On April 23, 2018, the Chapter 7 Trustee filed a notice of assets, subsequently employing an attorney, and a real estate broker. Debtor opposed Trustee's request to hold a real estate broker, and the Court approved the application after a hearing held on March 27, 2019.

On October 16, 2019, Trustee filed (1) a motion for turnover of property (the "Motion"); and (2) an adversary complaint against Kenneth Hammond seeking turnover of property from Debtor's non-filing spouse. The Motion requests that the

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Court order the occupants to vacate the Property within twenty days, while outlining certain permitted actions in the event that the occupants do not timely vacate the Property.

On October 30, 2019, Debtor filed her opposition to the Motion. Debtor's primary argument is that administration of the Property will not produce a consequential benefit to the estate. According to Trustee, the value of the Property is \$600,000-\$615,000, the Property is encumbered by security interests totaling \$402,000, Debtor claimed a homestead exemption in the amount of \$100,000, and costs of sale/repairs would total \$63,000. These figures would produce nonexempt equity in the range of \$35,000 to \$50,000. In Debtor's opposition she asserts that Trustee understates the needed repairs by \$52,960. Debtor also contends that Trustee overstates the fair market value of the Property by \$50,000-\$65,000. Finally, Debtor has increased her homestead exemption from \$100,000 to \$175,000 pursuant to an amended Schedule C filed October 30, 2019 [Dkt. No. 44]. Debtor also raises various procedural and equitable arguments in her opposition.

On November 6, 2019, Trustee filed a reply. Of particular note is that Trustee states that it will file an objection to Debtor's amended homestead exemption.

DISCUSSION

11 U.S.C. § 542(a) states:

Except as provided in subsection (c) or (d) of this section, 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, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

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The standard for a turnover action is well established:

"To prevail in a turnover action under § 542, the party seeking turnover must establish (1) that the property is or was in the possession, custody or control of an entity during the pendency of the case, (2) that the property may be used by the trustee in accordance with § 363 or exempted by the debtor under § 522; and (3) that the property has more than inconsequential value or benefit to the estate."

In re Bailey, 380 B.R. 486, 490 (B.A.P. 6th Cir. 2008); *see also In re Newman*, 487 B.R. 193 (B.A.P. 9th Cir. 2013). Here, the parties dispute the third prong of the turnover standard identified above.

The Court need not address the parties' dispute regarding the fair market value of the Property because Debtor's amended Schedule C, filed October 30, 2019, increased Debtor's homestead exemption by \$75,000. Because Trustee's own calculation results in realizable equity in the range of \$35,000 to \$50,000, Debtor's increased claimed homestead exemption eliminates all realizable equity in the subject property. Pursuant to FED. R. BANKR. P. Rule 1009(a), Debtor has a right to amend her schedules "as a matter of course" until the case is closed. And, pursuant to FED. R. BANKR. P. Rule 4003(c), the party objecting to a claimed exemption has the burden of proof. Therefore, in the absence of a formal objection, the Court must assume that Debtor's amended homestead exemption is valid. If Debtor's amended homestead exemption is valid, then the Property does not have consequential value to the bankruptcy estate.

TENTATIVE RULING

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The Court is inclined to CONTINUE the matter for Trustee to file an objection to Debtor's amended homestead exemption.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Christy Carmen Hammond

Represented By
Eric C Morris

Movant(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

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Adv#: 6:19-01144 Whitmore v. Hammond

#19.00 Status Conference RE: [1] Adversary case 6:19-ap-01144. Complaint by Robert S. Whitmore against Kenneth Hammond. (Charge To Estate) \$350.00 (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Unexecuted Summons) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(31 (Approval of sale of property of estate and of a co-owner - 363(h))), (91 (Declaratory judgment))

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christy Carmen Hammond

Represented By
Eric C Morris

Defendant(s):

Kenneth Hammond

Pro Se

Plaintiff(s):

Robert S. Whitmore

Represented By
Julie Philippi

Trustee(s):

Robert Whitmore (TR)

Represented By
Julie Philippi

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6:13-30625 John Martin Mata

Chapter 7

Adv#: 6:18-01089 Mata et al v. National Collegiate Student Loan Trust 2006-1 et a

#20.00 Motion To Intervene For The Limited Purpose Of Unsealing Court Records

Also #21

EH__

Docket 84

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Martin Mata

Represented By
Michael E Clark

Defendant(s):

National Collegiate Student Loan

Represented By
James Schultz
Debbie P Kirkpatrick

NATIONAL COLLEGIATE

Represented By
James Schultz
Debbie P Kirkpatrick

National Collegiate Student Loan

Represented By
James Schultz
Debbie P Kirkpatrick

Joint Debtor(s):

Livier Mata

Represented By
Michael E Clark

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Movant(s):

National Consumer Bankruptcy

Represented By
Razmig Izakelian

Plaintiff(s):

John Martin Mata

Represented By
Michael E Clark
Austin C Smith

Livier Mata

Represented By
Michael E Clark
Austin C Smith

Trustee(s):

Helen R. Frazer (TR)

Pro Se

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6:13-30625 John Martin Mata

Chapter 7

Adv#: 6:18-01089 Mata et al v. National Collegiate Student Loan Trust 2006-1 et a

#21.00 Motion to Unseal Document

Also #20

EH__

Docket 85

Tentative Ruling:

12/18/19

BACKGROUND

On December 31, 2013, John & Livier Mata ("Debtors") filed a Chapter 7 voluntary petition. On April 14, 2014, Debtors received a discharge, and the following day their case was closed.

On April 18, 2018, Debtors filed a complaint against National Collegiate Student Loan Trust 2006-1, National Collegiate Student Loan Trust 2006-4, and National Collegiate Student Loan Trust 2007-1 (collectively, "Defendants") for determination of dischargeability. Specifically, Debtors seek a declaratory judgment that their loans were discharged. On May 18, 2018, Defendants filed their answer.

On January 9, 2019, Defendants filed a motion for summary judgment. On February 5, 2019, Debtors filed their opposition. On May 8, 2019, the Court orally granted Defendants' motion for summary judgment although no order or judgment has yet been entered.

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In conjunction with its filing of the motion for summary judgment, Defendants filed a motion to file confidential documents under seal. Specifically, Defendants requested that the Court seal two student loan guaranty agreements. These guaranty agreements were provided to Debtors subject to a stipulated protective order entered by the Court on December 28, 2019. After conducting an in-camera review of the agreements, the Court entered an order granting Defendants' motion to seal the documents on January 16, 2019. Subsequently, Debtors referred to the guaranty agreements when filing their opposition to the motion for summary judgment, and, on January 31, 2019, the Court granted Debtors' motion to file the documents under seal.

On November 15, 2019, the National Consumer Bankruptcy Rights Center ("NCBRC") filed a motion to intervene and a motion to unseal the guaranty agreements. On November 25, 2019, Debtors filed a memorandum of law in support of NCBRC's motions. On December 4, 2019, Defendants filed a non-opposition to NCBRC's motion to intervene in the case and an opposition to the motion to unseal documents.

Based upon the non-opposition of Defendants, and for the reasons set forth in NCBRC's motion [Dkt. No. 84], the Court is inclined to grant the motion to intervene.

DISCUSSION

11 U.S.C. § 107(a)-(b)(1) state:

- (a) Except as provided in subsections (b) and (c) and subject to section 112, a paper filed in a case under this title and the dockets of a

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John Martin Mata

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bankruptcy court are public records and open to examination by an entity at reasonable times without charge.

- (b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy may –
- (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information;

As noted by the parties, 11 U.S.C. § 107 codifies and displaces the common law right of access to judicial proceeds. *See, e.g., In re Roman Catholic Archbishop of Portland in Oregon*, 661 F.3d 417 (9th Cir. 2011). In *In re Roman Catholic Archbishop of Portland in Oregon*, the Ninth Circuit stated the following:

We perceive such a divergence between § 107 and the common law. The statute speaks directly to, and diverges from, the common law right of judicial access. First, the common law rule distinguishes between dispositive and non-dispositive motions, while § 107 covers all papers filed in a bankruptcy case. Second, the common law rule gives courts the discretion to create exceptions to the general rule of disclosure to the public. By contrast, § 107 has only three exceptions: confidential business information, "scandalous or defamatory matter," and "means of identification." Third, the common law rule gives courts discretion to determine whether to protect or disclose documents, while § 107 eliminates a court's discretion by making it mandatory for a court to protect documents falling into one of the enumerated exceptions. Because § 107(b) imposes this mandatory requirement, it eliminates the balancing of public and private interests required by the common law rule if a document is scandalous or defamatory. Under § 107, the strength of the public's interest in a particular judicial record is irrelevant; if the exception pertains, the bankruptcy court must issue a protective order on a motion by the affected person or party.

Because § 107 speaks directly to and conflicts with significant aspects of the common law right of access, we join our sister circuits in

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CONT...

John Martin Mata

Chapter 7

holding that § 107 preempts the common law right of access in bankruptcy proceedings.

Id. at 430-31 (citations omitted). Therefore, in light of the above excerpt, the Court simply must determine whether Defendants have demonstrated that 11 U.S.C. § 107(b)(1) is applicable to the guaranty agreements. *See, e.g., In re Borders Group, Inc.*, 462 B.R. 42, 46 (Bankr. S.D.N.Y. 2011) ("[T]he moving party bears the burden of showing that the information is confidential."). "The burden of proof is heavy, requiring an extraordinary circumstance or compelling need." *In re Motors Liquidation Co.*, 561 B.R. 36, 42 (Bankr. S.D.N.Y. 2016) (quotation omitted). "Section 107(b) is not intended to save the debtor or creditors from embarrassment." *In re Food Mgmt. Group, LLC*, 359 B.R. 543, 554 (Bankr. S.D.N.Y. 2007).

Within the Second Circuit, the Bankruptcy Courts for the Southern District of New York have had occasion to repeatedly consider the application of § 107(b)(1) to confidential commercial information. *See, e.g., In re Borders Group, Inc.*, 462 B.R. 42, 47 (Bankr. S.D.N.Y.) ("For purposes of section 107(b), commercial information includes information which would cause an unfair advantage to competitors by providing them information as to the commercial operations of the debtor.") (quotations omitted); *see also In re Barney's, Inc.*, 201 B.R. 703, 708-09 (Bankr. S.D.N.Y.) (the redacted information must be "so critical to the operations of the entity seeking the protective order that its disclosure will unfairly benefit the entity's competition"). These cases make it apparent that the sealed information in this case *could potentially* fall under the umbrella of confidential commercial information. *See, e.g., In re Barney's, Inc.*, 201 B.R. 703 at 709 ("information might include, without limitation, pricing formulae, short and long term marketing strategies and the terms of the agreement with suppliers").

Nevertheless, as pointed out by NCBRC, Defendants' arguments appear to fall short of satisfying their "heavy" burden of proof. *See, e.g., In re Motors Liquidation Co.*, 561 B.R. 36 at 43 ("Evidence – not just argument – is required to support the extraordinary remedy of sealing."). Defendants repeated assertions that "[p]ublic disclosure of this private commercial information could negatively impact Defendants' competitive standing in the

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CONT... **John Martin Mata**

Chapter 7

student loan industry" do not appear to satisfy the evidentiary burden imposed on Defendants; if the Court were to accept this line of argument, it would effectively flip the burden of proof on to NCRBC/Debtors.

Additionally, the Court considers the importance of a thorough evidentiary record to be increased in this case due to the passage of time since the guaranty agreements were signed. *See, e.g., Koch v. Greenberg*, 2012 WL 1449186 at *4 (S.D.N.Y. 2012) (Materials "are all approximately 10 years old, and where commercially sensitive information is stale, this can undermine the party's (or non-party's) claim that disclosure will create a competitive disadvantage."). Noting that the documents at issue here are 15+ years old, the Court simply cannot consider Defendants' conclusory allegations as having satisfied the heavy burden of proof required in this situation to justify the extraordinary measure of sealing court records under § 107.

TENTATIVE RULING

The Court is inclined to GRANT both the motion to intervene and the motion to unseal documents.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

John Martin Mata

Represented By
Michael E Clark

Defendant(s):

National Collegiate Student Loan

Represented By
James Schultz
Debbie P Kirkpatrick

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CONT... **John Martin Mata**
NATIONAL COLLEGIATE

Chapter 7

Represented By
James Schultz
Debbie P Kirkpatrick

National Collegiate Student Loan

Represented By
James Schultz
Debbie P Kirkpatrick

Joint Debtor(s):

Livier Mata

Represented By
Michael E Clark

Movant(s):

National Consumer Bankruptcy

Represented By
Razmig Izakelian

Plaintiff(s):

John Martin Mata

Represented By
Michael E Clark
Austin C Smith

Livier Mata

Represented By
Michael E Clark
Austin C Smith

Trustee(s):

Helen R. Frazer (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:10-20626 Irma Cantu

Chapter 13

Adv#: 6:17-01057 Cantu v. Ocwen Loan Servicing, LLC et al

#1.00 CONT Status Conference RE: [1] Adversary case 6:17-ap-01057. Complaint by Irma Cantu against Ocwen Loan Servicing, LLC. (Fee Not Required). Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)),(65 (Dischargeability - other)),(72 (Injunctive relief - other)) (Cravens, Leonard)

From: 11/15/18, 6/6/19, 10/18/19

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/30/20 AT 11:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Irma Cantu

Represented By
Leonard J Cravens

Defendant(s):

Ocwen Loan Servicing, LLC

Represented By
Adam N Barasch

Ocwen Loan Servicing, LLC

Represented By
Adam N Barasch

Plaintiff(s):

Irma Cantu

Represented By
Leonard J Cravens

Trustee(s):

Rod (MJ) Danielson (TR)

Pro Se

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11:00 AM

6:17-12232 Margarito Martinez

Chapter 13

Adv#: 6:19-01051 Martinez v. Garza et al

#2.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01051. Complaint by Margarito Martinez against Cesar Emilo Garza, Noe Pelayo, George Arthur Macias, Flor Valladares, Henry Gonzalez, West Coast Realty, Inc., Grand Capital Group, M&M Associates. (Charge To Estate - \$350.00). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)))

From: 5/23/19, 8/22/19, 10/17/19

EH__

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Margarito Martinez

Represented By

Christopher J Langley

Defendant(s):

Cesar Garza

Pro Se

Noe Pelayo

Pro Se

George Arthur Macias

Pro Se

Flor Valladares

Pro Se

Henry Gonzalez

Pro Se

West Coast Plus Realty, Inc.

Pro Se

Grand Capital Group

Pro Se

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CONT... **Margarito Martinez**
 M&M Associates

Pro Se

Chapter 13

Plaintiff(s):

Margarito Martinez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:16-10196 Elizabeth Olachea

Chapter 13

#3.00 Motion to set aside RE: Motion to Dismiss

EH__

Docket 53

Tentative Ruling:

12/19/19

BACKGROUND

On January 11, 2016, Elizabeth Olachea ("Debtor") filed a Chapter 13 voluntary petition. On March 17, 2017, Debtor's Chapter 13 plan was confirmed, although amended confirmation orders were entered on March 22, 2017 and April 5, 2017.

On September 11, 2019, Trustee filed a motion to dismiss for failure to make plan payments. On October 1, 2019, Trustee filed a declaration stating that the delinquency had not been cured and no opposition had been filed. On October 4, 2019, the case was dismissed.

On November 20, 2019, Debtor filed a motion to vacate dismissal arguing that the case was dismissed after Trustee rejected a personal check sent to cure the outstanding arrears. This being the case, it appears that the proximate cause of the dismissal on October 4, 2019 was the failure of Debtor's attorney to promptly take action to address the situation, or to file an opposition. The motion contains no explanation as to why Debtor did not oppose the motion to dismiss.

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CONT... Elizabeth Olachea

Chapter 13

DISCUSSION

Debtor relies on FED. R. CIV. P. Rule 60(b)(1), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 9024, which allows for relief from an order based on "mistake, inadvertence, surprise, or excusable neglect."

While Debtors' argue that the case was dismissed due to mistakenly using a personal check to cure arrears, the Court is also concerned that Debtors' counsel did not file an opposition to Trustee's motion to dismiss. It is well established that "an attorney's ignorance and carelessness does not provide grounds for Rule 60(b) relief." *In re Mercado*, 144 B.R. 879, 886 (Bankr. C.D. Cal. 1992) (citing *Bershad v. McDonough*, 469 F.2d 1333, 1337 (7th Cir. 1972)). And the mere assertion that counsel did not fulfill its duties, but that such carelessness was inadvertent, is clearly inadequate to support Rule 60(b) relief. *See, e.g., In re ACME Motors, Inc.*, 125 B.R. 702, 703 (Bankr. D.R.I. 1991).

"Rule 60(b) relief is extraordinary." *Id.* Yet, in this court, a request for relief from a Chapter 13 dismissal order has become semi-ordinary. On occasion, the requests are legally sound. Here, however, the evidence provided simply indicates that Debtor's counsel did not attend the hearing for reasons that do not appear to be credible.

The Seventh Circuit has stated that:

[T]he clients are principals, the attorney is an agent, and under the law of agency the principal is bound by his chosen agent's deeds. The rule is that *all* of the attorney's misconduct (except in the cases where the act is outside the scope of employment or in cases of excusable neglect) becomes the problem of the client. A lawyer who inexcusably neglects his client's obligations does not present exceptional circumstances.

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CONT... Elizabeth Olachea

Chapter 13

Bakery Mach. & Fabrication, Inc. v. Traditional Baking, Inc., 570 F.3d 845, 848 (7th Cir. 2009). "Although attorney carelessness can [in certain circumstances] constitute 'excusable neglect' under Rule 60(b)(1), attorney inattentiveness to litigation is not excusable, no matter what the resulting consequences the attorney's somnolent behavior may have on a litigant." *Easley v. Kirmsee*, 382 F.3d 693, 698 (7th Cir. 2004) (collecting cases).

TENTATIVE RULING

The Court is inclined to GRANT the motion conditioned on compliance with the Trustee's conditions.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Elizabeth Olachea

Represented By
Antonio John Ibarra

Movant(s):

Elizabeth Olachea

Represented By
Antonio John Ibarra
Antonio John Ibarra

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:17-12149 Irma Dalia Cantu

Chapter 13

#4.00 CONT Debtor's Motion for Order Disallowing Claim no 1-1 filed by Ocwen Loan Servicing, LLC
(HOLDING DATE)

From: 6/4/18, 8/30/18, 11/15/18, 6/6/19, 10/17/19

EH__

Docket 24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Irma Dalia Cantu

Represented By
Leonard J Cravens

Movant(s):

Irma Dalia Cantu

Represented By
Leonard J Cravens
Leonard J Cravens

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:14-18349 Fabiola Adame

Chapter 13

#5.00 Motion For Order Denying Discharge

EH__

Docket 235

Tentative Ruling:

12/19/19

BACKGROUND

On June 27, 2014, Fabiola Adams ("Debtor") filed a Chapter 13 voluntary petition. On August 15, 2014, Debtor's Chapter 13 plan was confirmed. Debtor's Chapter 13 plan was subsequently modified twice.

On October 21, 2019, Trustee filed a notice of intent to file final report, as well as a notice of final cure mortgage payment pursuant to FED. R. BANKR. P. Rule 3002.1. On November 11, 2019, HSBC Bank USA, N.A. ("Creditor") filed a response to notice of final cure, stating that Debtor remained delinquent in the amount of \$33,345.36. On November 13, 2019, Trustee filed a motion for an order denying discharge, asserting that Debtor should not receive a discharge due to her failure to complete the direct payments provided for in the Chapter 13 plan.

On November 15, 2019, Debtor filed a motion for authorization to enter into a loan modification. On December 4, 2019, Debtor filed an opposition to Trustee's motion, appearing to argue that the loan modification cured the existing default. On December 5, 2019, the Court entered an order authorizing Debtor to enter into a loan modification agreement.

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CONT... Fabiola Adame

Chapter 13

DISCUSSION

After reviewing the attachment to docket number 239, Debtor's motion for authority to enter into a loan modification agreement, the Court notes that it does not appear that the attached documents actually include any loan modification terms. As a result, the Court has not been presented with any evidence establishing that Debtor has, in fact, cured the delinquent direct payments to Creditor.

TENTATIVE RULING

If Debtor provides evidence sufficient to establish that Debtor has cured the delinquent direct payments to Creditor, then the Court is inclined to DENY the motion. Otherwise, the Court is inclined to CONTINUE the matter for Debtor to file supplemental evidence.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Fabiola Adame

Represented By
Ramiro Flores Munoz

Movant(s):

Rod Danielson (TR)

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-14560 Raymond Norman Lauzon and Pamela Ann Lauzon

Chapter 13

#6.00 Motion to Disallow Claims Claim 7 and Amend Claim 7 by Ford Motor Credit Company, LLC

EH__

Docket 31

Tentative Ruling:

12/19/19

BACKGROUND:

On May 28, 2019, Raymond & Pamela Lauzon ("Debtors") filed a Chapter 13 voluntary petition. On September 20, 2019, Debtors' Chapter 13 plan was confirmed.

On June 13, 2019, Ford Motor Credit Company LLC ("Creditor") filed a proof of claim ("Claim 7"). Claim 7 was amended on July 1, 2019, and is currently a secured claim in the amount of \$3,525.06.

On November 12, 2019, Debtors filed an objection to Claim 7. Exhibit D to the claim objection is a certificate of title which evidences that Creditor released its lien on October 15, 2019.

APPLICABLE LAW:

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CONT... **Raymond Norman Lauzon and Pamela Ann Lauzon**

Chapter 13

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

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CONT... Raymond Norman Lauzon and Pamela Ann Lauzon

Chapter 13

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

Here, Exhibit D evidences that Creditor released its lien, and, as a result, no longer holds a secured claim. While Debtors have not provided any evidence establishing that Claim 7 was paid off, the Court concludes that the executed release of lien is sufficient to shift the burden of proof to Creditor. Creditor has not filed any opposition to the claim objection, which the Court also deems consent to the relief requested.

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, DISALLOWING Claim 7.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Raymond Norman Lauzon

Represented By
Dana Travis

Joint Debtor(s):

Pamela Ann Lauzon

Represented By

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CONT... Raymond Norman Lauzon and Pamela Ann Lauzon
Dana Travis

Chapter 13

Movant(s):

Raymond Norman Lauzon

Represented By
Dana Travis

Pamela Ann Lauzon

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-20126 Debra Suzanne Towne

Chapter 13

#7.00 Motion for Setting Property Value

EH__

Docket 11

Tentative Ruling:

12/19/19

BACKGROUND

On November 19, 2019, Debra Towne ("Debtor") filed a Chapter 13 voluntary petition. Among the assets of the estate is a 2013 Ford Escape (the "Property"). Pursuant to Claim 4, Bridgecrest Credit Company, LLC ("Creditor") holds a secured claim against the Property in the amount of \$14,639.38

On November 21, 2019, Debtor filed a motion to value the Property. Debtor asserts that the Property should be valued at \$6,050.

DISCUSSION

One of the benefits of filing a Chapter 13 bankruptcy is that under § 506(a) the debtor can bifurcate a secured, unavoidable debt, with one part representing the amount of the value of the collateral, and the deficiency being treated as an unsecured claim. *See In re Penrod*, 636 F.3d 1175, 1177 (9th Cir. 2011).

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CONT... Debra Suzanne Towne

Chapter 13

Presently, the Ninth Circuit has not established a uniform method for valuations. *See In re Ayres*, 2010 WL 652825 at *5 (Bankr. N.D. Cal. 2010) (collecting cases detailing vehicle valuation and describing the state of the law in the Ninth Circuit). In *In re Morales*, however, which this Court has previously cited with approval, it was determined that value should be calculated "by adjusting the Kelley Blue Book or N.A.D.A. Guide retail value for a like vehicle by a reasonable amount in light of the evidence presented regarding the condition of the vehicle or any other relevant factors." *In re Morales*, 387 B.R. 36, 45 (Bankr.C.D.Cal.2008).

According to the court in *In re Morales*, the retail values, and not the private party values, are the appropriate starting points because the text of § 506(a)(2) refers to "the price a retail merchant would charge" and does not refer to the price a private party would charge. *Morales* at 46.

Here, Debtor has provided a N.A.D.A report identifying the clean retail value of the Property, and the Court deems the non-opposition to be consent to the relief requested pursuant to Local Rule 9013-1(h).

Tentative Ruling:

The Court is inclined to GRANT the motion, valuing the Property at \$6,050, and bifurcating Claim 4 into a secured claim in the amount of \$6,050 and an unsecured claim in the amount of \$8,589.38.

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Debra Suzanne Towne

Represented By

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CONT... Debra Suzanne Towne

Chapter 13

Paul Y Lee

Movant(s):

Debra Suzanne Towne

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-13334 Rafael Gonzalez and Sonia Cardenas

Chapter 13

#8.00 Application for Compensation (Supplemental) for Henry D Paloci, Debtor's Attorney, Period: 4/19/2019 to 9/19/2019, Fee: \$5215.00, Expenses: \$239.10

EH__

Docket 96

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Joint Debtor(s):

Sonia Cardenas

Represented By
Henry D Paloci

Movant(s):

Rafael Gonzalez

Represented By
Henry D Paloci

Sonia Cardenas

Represented By
Henry D Paloci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

6:19-11430 Michael L. Williams

Chapter 13

#9.00 Motion RE: Objection to Claim Number 10,11 by Claimant Synchrony Bank

EH__

Docket 26

Tentative Ruling:

12/19/19

BACKGROUND:

On February 25, 2019, Michael Williams ("Debtor") filed a Chapter 13 voluntary petition. On June 13, 2019, Debtor's Chapter 13 plan was confirmed. Synchrony Bank ("Creditor") did not file an objection to the plan confirmation. The Chapter 13 plan provided for Debtor to surrender: (a) a 2017 Polaris Razor; and (b) a 2017 Suzuki RMZ 450 to Creditor (collectively, the "Vehicles").

Prior to confirmation, Creditor filed two proofs of claims. The first was filed in the amount of \$5,819.81 ("Claim 10"). The second was filed in the amount of \$27,461.98 ("Claim 11"). On November 5, 2019, and on October 31, 2019, respectively, Claim 10 and Claim 11 were amended to provide for a secured claim in the amount of valuation of the vehicle, and an unsecured claim for the deficiency.

On November 7, 2019, Debtor filed objections to Claim 10 and Claim 11. Debtor asserts that Creditor has refused to repossess the Vehicles, and that Claim 10 and Claim 11 should be reduced by the trade-in value of the Vehicles.

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CONT... Michael L. Williams

Chapter 13

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. See *Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

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CONT... Michael L. Williams

Chapter 13

Pursuant to 11 U.S.C. § 1325(a)(5), a Chapter 13 debtor has three options for treatment of a secured claim pursuant to a Chapter 13 plan. The third option is surrendering the collateral. Debtor's plan, with respect to the Vehicles, selected the third option. Section 1325(a)(5) is written in the disjunctive – therefore, Debtor is relieved from having to comply with either of the other options (i.e. making payments on the secured portion of Creditor's claims).

Claim 10 and Claim 11 identify a fair market value of the Vehicles which is higher than the trade-in value identified in Debtor's claim objection. Because Debtor only has to pay the deficiency on Claim 10 and Claim 11, and because a higher fair market value results in a lower deficiency, upon sustaining Debtor's claim objection, Debtor's unsecured liability to Creditor in bankruptcy will be more than the amount asserted in the filed proofs of claim.¹ Creditor has failed to oppose and is deemed to consent to the relief requested pursuant to Local Rule 9013-1(h).

Regarding Debtor's request that the Court order Creditor to repossess the Vehicles, Debtor has not raised any argument supporting the appropriateness of the requested relief. As is noted by a bankruptcy treatise:

Surrender in this context means simply the relinquishment of any rights in the collateral. Therefore, if the debtor no longer has possession of the collateral, actual delivery by the debtor to the creditor should not be required. There is also no requirement that the creditor consent to the surrender or actually accept possession of the collateral.

8 COLLIER'S ON BANKRUPTCY ¶ 1325.06[4] (16th ed. 2018). Here, confirmation of Debtor's Chapter 13 plan means that the Debtor (and the bankruptcy estate)

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Chapter 13

relinquished all rights in the Vehicles. The appropriate disposition of the Vehicles after that relinquishment is not a matter appropriately addressed by this Court.

TENTATIVE RULING

The Court is inclined to SUSTAIN the objection, allowing general unsecured claims of \$2,459.81 and \$15,136.98 on Claim 10 and Claim 11, respectively.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Michael L. Williams

Represented By
Gregory Ashcraft

Movant(s):

Michael L. Williams

Represented By
Gregory Ashcraft

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-11710 Heather Ann Pessoa Bond

Chapter 13

#10.00 Motion RE: Objection to Claim Number 7 by Claimant Wheels Financial Group, LLC dba 1-800 LoanMart

EH__

Docket 78

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

Movant(s):

Heather Ann Pessoa Bond

Represented By
Matthew D. Resnik

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#11.00 CONT Order to show cause why Claimant, The Bank of New York Mellon, as Successor Indenture Trustee, and Servicer, Specialized Loan Servicing LLC, Claim 5 should not be reduced

From: 11/7/19

Also #12 & #13

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#12.00 CONT Motion RE: Objection to Claim Number 5 by Claimant Specialized Loan Servicing LLC

From: 10/3/19, 11/7/19

Also #11 & #13

EH ____

Docket 44

Tentative Ruling:

10/3/2019

BACKGROUND:

On April 15, 2019, Mark & Elizabeth Swartz ("Debtors") filed a Chapter 13 voluntary petition. On June 21, 2019, The Bank of New York Mellon f/k/a The Bank of New York as successor Indenture trustee to JPMorgan Chase Bank, National Association for CWHEQ Revolving Home Equity Loan Trust, Series 2006-F ("Creditor") filed a proof of claim for a secured claim in the amount of \$157,959.06 ("Claim 5").

On July 10, 2019, Debtors filed an objection to Claim 5. Debtors argued that the information filed in support of Claim 5 is inadequate pursuant to the Federal Rules of Bankruptcy Procedure, and that, as a result, Creditor has failed to meet its burden of proof. At the hearing of August 22, 2019, the Court noted that there appeared to be an error on the proof of service which resulted in Creditor's notice address being misstated. For that reason, the Court continued the matter for proper service.

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CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

On August 30, 2019, Debtors filed a renewed objection to Claim 5. The Court notes that notice and service are now proper.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). See *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. See *In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the

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CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

ANALYSIS:

11 U.S.C. § 502(b)(1) (2005) states:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

(1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured;

FED. R. BANKR. P. Rule 3001(c)(2) identifies certain required information that a claimant must attach to a proof of claim in order for the claim to be afforded *prima facie* validity. In particular, the Court notes that Rule 3001(c)(2)(A) and (C) provide requirements related to the itemization of non-principal amounts and escrow amounts, respectively.

The Court finds Debtors' assertion that the supporting information is inadequate to be well-founded. The mortgage proof of claim attachment includes the following information. Part 2 identifies a principal balance of \$98,982.98, interest due of \$55,486.25, and fees and costs of \$3,489.83. Part 3 identifies a pre-petition arrears of \$87,692.60, of which \$84,202.77 was principal and \$3,489.83 was the aforementioned costs. And Part 4 asserts that the month payment includes \$607.39 for principal and interest and \$549.90 for escrow.

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Chapter 13

The two figures which do not appear to be justified in the supporting documentation are the \$55,486.25 in interest and the \$549.90 monthly payment for escrow. The Court notes that the loan payment history spreadsheet provided by Creditor does not contain any itemization for interest or escrow, and, furthermore, the entire column relating to accrued interest balance and accrued escrow balance is zeroed out.

Because Creditor has failed to separate principal, interest, and escrow, as directed by FED. R. BANKR. P. Rule 3001(c)(2), and, noting that Debtors have declared that there is no escrow account relating to the second mortgage, the Court is unable to determine the validity or amount of the prepetition default identified in column G of the loan payment history. The Court has also not been provided with any itemization or calculation of the interest amount, alleged to be \$55,486.25.

As a result, the Court is inclined to reduce Claim 5 to \$102,472.81, representing the principal balance and fees and costs due in part 2 of the loan payment history, with a prepetition arrearage amount of \$0.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

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CONT... Mark G Swartz and Elizabeth M Swartz

Chapter 13

Movant(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Elizabeth M Swartz

Represented By
Joseph A Weber
Joseph A Weber
Fritz J Firman
Fritz J Firman

PYOD LLC

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-13146 Mark G Swartz and Elizabeth M Swartz

Chapter 13

#13.00 CONT Confirmation of Chapter 13 Plan

From: 7/11/19, 8/22/19, 10/3/19, 11/7/19

Also #11 & #12

EH __

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark G Swartz

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Elizabeth M Swartz

Represented By
Joseph A Weber
Fritz J Firman

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#14.00 CONT Trustee's Motion to Dismiss Case

From: 9/5/19, 10/3/19, 10/17/19, 12/5/19

Also #15 & #16

EH__

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:18-13335 Annabelle M. Vigil

Chapter 13

#15.00 CONT Motion to Disallow Claim No. 3 filed by Lake Hills Maintenance Corporation

From: 9/19/19, 10/17/19, 12/5/19

Also #14 & #16

EH__

Docket 51

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Movant(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-13335 Annabelle M. Vigil

Chapter 13

#16.00 CONT Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments

From: 9/19/19, 10/17/19, 12/5/19

Also #14 & #15

EH__

Docket 53

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Movant(s):

Annabelle M. Vigil

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-20429 Augusto Mora

Chapter 13

#17.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate re personal property

MOVANT: AUGUSTO MORA

EH____

Docket 11

Tentative Ruling:

12/19/2019

Service is Proper
Opposition: None

Having reviewed the motion, the Court finds that notice was proper and no opposition was filed. Debtor's previous case having been filed *pro se*, and Debtor having hired counsel in the instant case, the Court finds that Debtor has provided sufficient evidence to rebut the statutory presumption of bad faith arising under 11 U.S.C. § 362(c)(3)(C)(i)(II)(aa), and, therefore, the Court is inclined to GRANT the motion to the extent of CONTINUING the automatic stay as to all creditors.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Augusto Mora

Represented By
Christopher J Langley

Movant(s):

Augusto Mora

Represented By
Christopher J Langley

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CONT... Augusto Mora

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:19-20564 Robert Ibay Orina and Emmyruth Amizola Orina

Chapter 13

#18.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate Real property at 1275 S. Arrowhead Avenue, Bloomington, CA 92316

MOVANT: ROBERT IBAY ORINA AND EMMYRUTH AMIZOLA ORINA

EH ____

Docket 14

Tentative Ruling:

12/19/2019

Service is Okay
Opposition: None

11 U.S.C. § 362(c)(3)(C)(i)(II)(cc) provides for a statutory presumption that a case was filed in bad faith when a debtor had a case dismissed in the previous year after failing to perform the terms of a plan confirmed by the court. Here, Debtors' previous case was dismissed for failure to make plan payments on January 24, 2019. Therefore, the instant case is presumed to have been filed in bad faith. Section 362(c)(3)(C) requires that Debtor submit "clear and convincing" evidence in order to rebut the presumption that the case was filed in bad faith. Here, the evidence submitted by Debtors indicates that the husband's income has increased. The evidence submitted by Debtors, however, does not provide any detail regarding the amount of the increase in income. Therefore, Debtors have not provided any "clear and convincing" evidence establishing a change in financial circumstances between the dismissal of the previous case and the filing of the instant case which would rebut the statutory presumption of bad faith.

Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

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CONT... Robert Ibay Orina and Emmyruth Amizola Orina

Chapter 13

Party Information

Debtor(s):

Robert Ibay Orina

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Emmyruth Amizola Orina

Represented By
Nicholas W Gebelt

Movant(s):

Robert Ibay Orina

Represented By
Nicholas W Gebelt

Emmyruth Amizola Orina

Represented By
Nicholas W Gebelt
Nicholas W Gebelt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:19-19359 Jesus Antonio Palomares and Claudia Heredia Palomares Chapter 13

#19.00 Motion By United States Trustee To Dismiss Chapter 13 Case With A Re-filing Bar

EH__

Docket 17

Tentative Ruling:

12/19/19

BACKGROUND

On October 24, 2019, Jesus & Claudia Palomares ("Debtors") filed a skeletal Chapter 13 voluntary petition. Debtors have had bankruptcy cases previously dismissed in: (1) February 2012; (2) March 2014; (3) December 2014; (4) February 2015; (5) June 2019; and (6) October 2019. The last four cases were dismissed for failure to file information. Debtors received discharges in: (1) 1998 (Chapter 7 case); and (2) January 2016 (Chapter 7 case).

On October 29, 2019, Debtors filed the balance of their case commencement documents, as well as a motion to impose the automatic stay. The motion to impose the automatic stay was ultimately denied pursuant to an order entered December 4, 2019.

On November 15, 2019, UST filed a motion to dismiss the case with a re-filing bar, requesting a re-filing-bar of one year. The instant case was filed *pro se*, as were four of the six previously dismissed cases. Of the six previously dismissed cases, three were dismissed for failure to file documents, two were dismissed voluntarily, and one was dismissed for failure to make plan payments.

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Chapter 13

DISCUSSION

Regarding UST's request to dismiss the case, 11 U.S.C. § 1307(c) provides a non-exhaustive list of grounds for dismissal of a Chapter 13 case. Noting that § 1307(c) is not exhausting, UST requests that the case be dismissed for bad faith. As noted by UST, the Ninth Circuit in *In re Leavitt*, 171 F.3d 1219 (9th Cir. 1999) outlined factors that the Court should consider when determining whether a case has been filed in bad faith:

- (1) whether the debtor misrepresented facts in his or her petition or plan, unfairly manipulated the Bankruptcy Code or otherwise filed the Chapter 13 petition or plan in an inequitable manner;
- (2) the debtor's history of filings and dismissals;
- (3) whether the debtor's only purpose in filing for chapter 13 protection is to defeat state court litigation; and
- (4) whether egregious behavior is present.

at 1224. The Court finds that factors (1), (3), and (4) are present in the instant case. Specifically, Debtor has had two previous cases dismissed in the past six months, and six cases dismissed in the past eight years. This is the fifth *pro se* filing in the past five years; all of the previous four filings were dismissed within two months of the petition date. Additionally, the Court notes that Debtors have omitted four of the seven previous filings from their disclosure of previous cases on the petition. Finally, as is noted by the Chapter 13 Trustee on his objection to confirmation [Dkt. No. 23], there are extensive, fatal deficiencies in the Debtors' prosecution of the instant case.

The court notes that it empowered to impose a refiling bar under 11 U.S.C. § 349(a). As COLLIER notes, courts' analysis of this section is somewhat confused due to confounding "dismissal with prejudice" with "dismissal with injunction against future filings." COLLIER ON BANKRUPTCY ¶ 349.02[3]; compare *In re Garcia*, 479 B.R. 488 (Bankr. N.D. Ind. 2012) (denying motion for dismissal with prejudice, but imposing three-year refiling bar) with *In re Craighead*, 377 B.R. 648 (Bankr. N.D. Cal. 2007) (appearing to equate dismissal with prejudice with an injunction against refiling).

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CONT... Jesus Antonio Palomares and Claudia Heredia Palomares

Chapter 13

There is also a circuit split concerning whether an injunction on refiling for more than 180 days is allowed under the Bankruptcy Code. *Compare In re Frieouf*, 938 F.2d 1099 (10th Cir. 1991) (180 days is maximum allowed length of refiling injunction) *with Casse v. Key Bank Nat. Ass'n*, 198 F.3d 327 (2nd Cir. 1999) (injunction against filing for more than 180 days permissible). 11 U.S.C. § 349(a) reads:

Unless, the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(g) of this title.

The disagreement revolves around whether the qualifier "Unless, the court, for cause, orders otherwise" modifies the content after the semi-colon. *In re Leavitt* noted this disagreement, but since the court was dealing with a dismissal with prejudice, rather than an injunction against refiling, it did not resolve the issue. 209 B.R. 935, 942 (9th Cir. B.A.P. 1997). Within the Ninth Circuit, it appears the trend is to adopt the reasoning of the Second Circuit and allow injunctions for more than 180 days, and the Court agrees with that reading of the statute. *See e.g. In re Velasques*, 2012 WL 8255582 at *3 (Bankr. E.D. Cal. 2012).

Here, the instant bankruptcy is Debtor's fourth skeletal filing in the previous seven months. Furthermore, Debtor failed to disclose any previous filings in the voluntary petition, which is signed under penalty of perjury. For these reasons, the Court is inclined to find the requested one-year refiling bar to be appropriate in the circumstances presented.

Moreover, Debtor's failure to oppose is deemed consent to the relief requested pursuant to Local Rule 9013-1(h).

TENTATIVE RULING

The Court is inclined to either GRANT the motion, dismissing the case with a one-

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CONT... **Jesus Antonio Palomares and Claudia Heredia Palomares**
year bar to re-filing.

Chapter 13

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jesus Antonio Palomares	Pro Se
-------------------------	--------

Joint Debtor(s):

Claudia Heredia Palomares	Pro Se
---------------------------	--------

Movant(s):

United States Trustee (RS)	Represented By Abram Feuerstein esq
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Trustee(s):

Rod Danielson (TR)	Pro Se
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11:00 AM

6:19-19092 Hakim M. Iscandari and Christine E. Allen

Chapter 13

#20.00 Motion to Avoid Junior Lien with Rosetta Canyon Community Association

Also #21 - #23

EH__

Docket 24

Tentative Ruling:

12/19/19

Service: Proper
Opposition: None

As is noted by Rosetta Canyon Community Association, the instant motions [Dkt. Nos. 21-24] all identify the first deed of trust as the subject lien in ¶ 2 of the motion. As a result, the motions contain contradictory requests for relief. Additionally, the Court notes that docket numbers 21 and 22 appear to be identical, when the Court presumes that docket number 21 actually intended to request avoidance of the second trust deed. Finally, it would appear that the earlier HOA liens may either no longer be valid due to the passage of time or because the recorded abstract of judgment superseded the previously recorded notices of delinquent assessments.

Apart from these issues noted above, the Court notes that Exhibit 1 adequately establishes that the first trust deed was approximately \$492,350 as of the petition date, and Exhibits 10 and 11 adequately establish that the fair market value was approximately \$390,000 as of the petition date. Therefore, aside from notice and due process errors, Debtors appear to have satisfied the § 506 requirements for bifurcating the wholly undersecured claims of the junior lienholders.

Based on the foregoing, the Court is inclined to DENY all motions without prejudice.

APPEARANCES REQUIRED.

Party Information

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CONT... Hakim M. Iscandari and Christine E. Allen

Chapter 13

Debtor(s):

Hakim M. Iscandari

Represented By
Christopher J Langley

Joint Debtor(s):

Christine E. Allen

Represented By
Christopher J Langley

Movant(s):

Hakim M. Iscandari

Represented By
Christopher J Langley

Christine E. Allen

Represented By
Christopher J Langley
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-19092 Hakim M. Iscandari and Christine E. Allen

Chapter 13

#21.00 Motion to Avoid Junior Lien with Rosetta Canyon Community Association

Also #20 - #23

EH__

Docket 21

Tentative Ruling:

12/19/19

Service: Proper
Opposition: None

As is noted by Rosetta Canyon Community Association, the instant motions [Dkt. Nos. 21-24] all identify the first deed of trust as the subject lien in ¶ 2 of the motion. As a result, the motions contain contradictory requests for relief. Additionally, the Court notes that docket numbers 21 and 22 appear to be identical, when the Court presumes that docket number 21 actually intended to request avoidance of the second trust deed. Finally, it would appear that the earlier HOA liens may either no longer be valid due to the passage of time or because the recorded abstract of judgment superseded the previously recorded notices of delinquent assessments.

Apart from these issues noted above, the Court notes that Exhibit 1 adequately establishes that the first trust deed was approximately \$492,350 as of the petition date, and Exhibits 10 and 11 adequately establish that the fair market value was approximately \$390,000 as of the petition date. Therefore, aside from notice and due process errors, Debtors appear to have satisfied the § 506 requirements for bifurcating the wholly undersecured claims of the junior lienholders.

Based on the foregoing, the Court is inclined to DENY all motions without prejudice.

APPEARANCES REQUIRED.

Party Information

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CONT... Hakim M. Iscandari and Christine E. Allen

Chapter 13

Debtor(s):

Hakim M. Iscandari

Represented By
Christopher J Langley

Joint Debtor(s):

Christine E. Allen

Represented By
Christopher J Langley

Movant(s):

Hakim M. Iscandari

Represented By
Christopher J Langley

Christine E. Allen

Represented By
Christopher J Langley
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-19092 Hakim M. Iscandari and Christine E. Allen

Chapter 13

#22.00 Motion to Avoid Junior Lien with Rosetta Canyon Community Association

Also #20 - #23

EH__

Docket 22

Tentative Ruling:

12/19/19

Service: Proper
Opposition: None

As is noted by Rosetta Canyon Community Association, the instant motions [Dkt. Nos. 21-24] all identify the first deed of trust as the subject lien in ¶ 2 of the motion. As a result, the motions contain contradictory requests for relief. Additionally, the Court notes that docket numbers 21 and 22 appear to be identical, when the Court presumes that docket number 21 actually intended to request avoidance of the second trust deed. Finally, it would appear that the earlier HOA liens may either no longer be valid due to the passage of time or because the recorded abstract of judgment superseded the previously recorded notices of delinquent assessments.

Apart from these issues noted above, the Court notes that Exhibit 1 adequately establishes that the first trust deed was approximately \$492,350 as of the petition date, and Exhibits 10 and 11 adequately establish that the fair market value was approximately \$390,000 as of the petition date. Therefore, aside from notice and due process errors, Debtors appear to have satisfied the § 506 requirements for bifurcating the wholly undersecured claims of the junior lienholders.

Based on the foregoing, the Court is inclined to DENY all motions without prejudice.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

CONT... Hakim M. Iscandari and Christine E. Allen

Chapter 13

Debtor(s):

Hakim M. Iscandari

Represented By
Christopher J Langley

Joint Debtor(s):

Christine E. Allen

Represented By
Christopher J Langley

Movant(s):

Hakim M. Iscandari

Represented By
Christopher J Langley

Christine E. Allen

Represented By
Christopher J Langley
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-19092 Hakim M. Iscandari and Christine E. Allen

Chapter 13

#23.00 Motion to Avoid Junior Lien with Rosetta Canyon Community Association

Also #20 - #22

EH__

Docket 23

Tentative Ruling:

12/19/19

Service: Proper
Opposition: None

As is noted by Rosetta Canyon Community Association, the instant motions [Dkt. Nos. 21-24] all identify the first deed of trust as the subject lien in ¶ 2 of the motion. As a result, the motions contain contradictory requests for relief. Additionally, the Court notes that docket numbers 21 and 22 appear to be identical, when the Court presumes that docket number 21 actually intended to request avoidance of the second trust deed. Finally, it would appear that the earlier HOA liens may either no longer be valid due to the passage of time or because the recorded abstract of judgment superseded the previously recorded notices of delinquent assessments.

Apart from these issues noted above, the Court notes that Exhibit 1 adequately establishes that the first trust deed was approximately \$492,350 as of the petition date, and Exhibits 10 and 11 adequately establish that the fair market value was approximately \$390,000 as of the petition date. Therefore, aside from notice and due process errors, Debtors appear to have satisfied the § 506 requirements for bifurcating the wholly undersecured claims of the junior lienholders.

Based on the foregoing, the Court is inclined to DENY all motions without prejudice.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

CONT... Hakim M. Iscandari and Christine E. Allen

Chapter 13

Debtor(s):

Hakim M. Iscandari

Represented By
Christopher J Langley

Joint Debtor(s):

Christine E. Allen

Represented By
Christopher J Langley

Movant(s):

Hakim M. Iscandari

Represented By
Christopher J Langley

Christine E. Allen

Represented By
Christopher J Langley
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-17901 Wendy Ramirez

Chapter 13

#24.00 CONT Confirmation of Chapter 13 Plan

From: 12/5/19

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Wendy Ramirez

Represented By
Brian J Soo-Hoo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18375 Arlin Sanchez

Chapter 13

#25.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/15/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Arlin Sanchez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18381 Samantha Recotta

Chapter 13

#26.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/15/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Samantha Recotta

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18390 Lyndon Ray Quisenberry

Chapter 13

#27.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lyndon Ray Quisenberry

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18397 Mark David Dixon

Chapter 13

#28.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark David Dixon

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18401 Patricia Annette Console and Jesse Delgado

Chapter 13

#29.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/15/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Annette Console	Pro Se
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Joint Debtor(s):

Jesse Delgado	Pro Se
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Trustee(s):

Rod Danielson (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18412 Guadalupe Garibay Herrera

Chapter 13

#30.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Guadalupe Garibay Herrera

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18417 Jose G. Rodriguez

Chapter 13

#31.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose G. Rodriguez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18420 Harris M Booker

Chapter 13

#32.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Harris M Booker

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18431 Charles Edmund Brownell

Chapter 13

#33.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Charles Edmund Brownell

Represented By
Andrew Nguyen

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18464 Griseldo Rodriguez

Chapter 13

#34.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Griseldo Rodriguez

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18469 Jose Verdin and Reina Verdin

Chapter 13

#35.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Verdin

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Reina Verdin

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18569 Edwin Briones and Gabriela Sandez

Chapter 13

#36.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edwin Briones

Represented By
Kevin Tang

Joint Debtor(s):

Gabriela Sandez

Represented By
Kevin Tang

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18616 John Carl Jones and Kara Emily Jones

Chapter 13

#37.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Carl Jones

Represented By
Norma Duenas

Joint Debtor(s):

Kara Emily Jones

Represented By
Norma Duenas

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18663 Kelli Cherise Odoms

Chapter 13

#38.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kelli Cherise Odoms

Represented By
Michael E Clark

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18671 Rhonda Kline

Chapter 13

#39.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 10/21/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rhonda Kline

Represented By
Bruce A Boice

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18677 Bertha Muhammad

Chapter 13

#40.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/21/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bertha Muhammad

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18697 Luci Denise. Green

Chapter 13

#41.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luci Denise. Green

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18705 Regina Huber

Chapter 13

#42.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Regina Huber

Represented By
Alon Darvish

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18712 Casildo Guerra, JR.

Chapter 13

#43.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Casildo Guerra JR.

Represented By
W. Derek May

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18726 Frank E Sharaby

Chapter 13

#44.00 CONT Motion to Avoid Junior Lien On Principal Residence with Franklin Credit Management

From: 11/7/19

Also #45

EH ____

Docket 18

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank E Sharaby

Represented By
Paul Y Lee

Movant(s):

Frank E Sharaby

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18726 Frank E Sharaby

Chapter 13

#45.00 Confirmation of Chapter 13 Plan

Also #44

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank E Sharaby

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18761 Alejandro E. Penaloza and Maria G. Penaloza

Chapter 13

#46.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alejandro E. Penaloza

Represented By
Sundee M Teeple

Joint Debtor(s):

Maria G. Penaloza

Represented By
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18763 Mario J. Martinez and Christine S. Martinez

Chapter 13

#47.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 11/6/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mario J. Martinez

Represented By
Terrence Fantauzzi

Joint Debtor(s):

Christine S. Martinez

Represented By
Terrence Fantauzzi

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18781 Steven Cruz

Chapter 13

#48.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 10/22/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Steven Cruz

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18785 Phat M Khamkathok

Chapter 13

#49.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Phat M Khamkathok

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18341 Jerry Arnold La Cues and Pamela Ann La Cues

Chapter 13

#50.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

***** VACATED *** REASON: CASE DISMISSED 12/18/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerry Arnold La Cues Pro Se

Joint Debtor(s):

Pamela Ann La Cues Pro Se

Trustee(s):

Rod Danielson (TR) Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18347 Paulina Walters

Chapter 13

#51.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

*** VACATED *** REASON: CASE DISMISSED 11/6/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paulina Walters

Represented By
Corysa D Martinez

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18360 Ramiro Delgado Flores, II

Chapter 13

#52.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ramiro Delgado Flores II

Represented By
Andrew S Bisom

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18361 Jorge Mercado and Martha Mercado

Chapter 13

#53.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Mercado

Represented By
Paul Y Lee

Joint Debtor(s):

Martha Mercado

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18371 Diego Retana and Grecia Marielos Retana

Chapter 13

#54.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Diego Retana

Represented By
Todd L Turoci

Joint Debtor(s):

Grecia Marielos Retana

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18372 Margarito Horta

Chapter 13

#55.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Margarito Horta

Represented By
James D. Hornbuckle

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18312 Rogelio Marquez and Rosa M. Perea de Marquez

Chapter 13

#56.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rogelio Marquez

Represented By
Curtis R Aijala

Joint Debtor(s):

Rosa M. Perea de Marquez

Represented By
Curtis R Aijala

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:00 AM

6:19-18332 Christopher Bryan Dennis

Chapter 13

#57.00 Confirmation of Chapter 13 Plan

EH __

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Bryan Dennis

Represented By
M. Wayne Tucker

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:13-28666 Mildred Goodridge Crawford

Chapter 13

#58.00 Trustee's Motion to Dismiss Case

EH__

Docket 262

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mildred Goodridge Crawford

Represented By
Michael Smith
Craig K Streed
Sundee M Teeple

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:16-15668 Roger C Jefferson

Chapter 13

#59.00 Trustee's Motion to Dismiss Case

EH__

Docket 148

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roger C Jefferson

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:17-12647 Joseph V. Lessa and Nichole Alyce Lessa

Chapter 13

#60.00 Trustee's Motion to Dismiss Case

EH__

Docket 61

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph V. Lessa

Represented By
Paul Y Lee

Joint Debtor(s):

Nichole Alyce Lessa

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:17-14972 Jude Okwor

Chapter 13

#61.00 Trustee's Motion to Dismiss Case

EH__

Docket 64

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/2/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jude Okwor

Represented By
Javier H Castillo

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:17-15893 Joseph Manuel Ruiz and Shannon Elizabeth Ruiz

Chapter 13

#62.00 Trustee's Motion to Dismiss Case

EH__

Docket 63

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Manuel Ruiz

Represented By
April E Roberts

Joint Debtor(s):

Shannon Elizabeth Ruiz

Represented By
April E Roberts

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:17-16114 Allan Omar Ramos

Chapter 13

#63.00 CONT Trustee's Motion to Dismiss Case

From: 12/5/19

EH__

Docket 51

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allan Omar Ramos

Represented By
Julie J Villalobos

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:17-17589 Ryan Patrick McHugh and Jennifer Lynne McHugh

Chapter 13

#64.00 Trustee's Motion to Dismiss Case

EH__

Docket 102

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/21/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Patrick McHugh

Represented By
Paul Y Lee

Joint Debtor(s):

Jennifer Lynne McHugh

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:18-10456 David Allen Rose, Jr. and Karen Sue Rose

Chapter 13

#65.00 Trustee's Motion to Dismiss Case

EH ____

Docket 79

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Allen Rose Jr.

Represented By
Dana Travis

Joint Debtor(s):

Karen Sue Rose

Represented By
Dana Travis

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:18-12022 Maribel M Vasquez

Chapter 13

#66.00 Trustee's Motion to Dismiss Case

EH__

Docket 61

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/25/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maribel M Vasquez

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:18-12714 Frank W Haywad

Chapter 13

#67.00 Trustee's Motion to Dismiss Case

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank W Haywad

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:18-14725 Percylyn Agustin Basa

Chapter 13

#68.00 CONT Trustee's Motion to Dismiss Case

From: 11/21/19

EH__

Docket 80

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Percylyn Agustin Basa

Represented By
Benjamin R Heston

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:18-15033 Victor Portillo

Chapter 13

#69.00 Trustee's Motion to Dismiss Case

EH__

Docket 55

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Victor Portillo

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:18-16237 Miguel Santa Maria and Lilia Maldonado

Chapter 13

#70.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19, 11/21/19

EH__

Docket 52

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Miguel Santa Maria

Represented By
Todd L Turoci

Joint Debtor(s):

Lilia Maldonado

Represented By
Todd L Turoci

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:18-18457 Juan A Martinez

Chapter 13

#71.00 Trustee's Motion to Dismiss Case

EH__

Docket 47

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan A Martinez

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:18-19277 Kevin Daily

Chapter 13

#72.00 Trustee's Motion to Dismiss Case

EH__

Docket 32

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/21/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kevin Daily

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:18-19737 Abelardo Magana and Santos Magana

Chapter 13

#73.00 Trustee's Motion to Dismiss Case

EH__

Docket 44

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Abelardo Magana

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Santos Magana

Represented By
Rebecca Tomilowitz

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:19-10415 Lewis K. Chism and Latoya A. Chism

Chapter 13

#74.00 Trustee's Motion to Dismiss Case

EH__

Docket 65

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lewis K. Chism

Represented By
Christopher J Langley

Joint Debtor(s):

Latoya A. Chism

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:19-10934 Jorge Ramirez and Evelia Ramirez

Chapter 13

#75.00 CONT Trustee's Motion to Dismiss Case

From: 8/19/19, 11/21/19

EH__

Docket 28

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Ramirez

Represented By
Christopher J Langley

Joint Debtor(s):

Evelia Ramirez

Represented By
Christopher J Langley

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:19-12676 Anthony P Mendoza and Lena E Mendoza

Chapter 13

#76.00 Trustee's Motion to Dismiss Case

EH__

Docket 31

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony P Mendoza

Represented By
Paul Y Lee

Joint Debtor(s):

Lena E Mendoza

Represented By
Paul Y Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:19-13855 Noel Guerrero Avalos and Veronica Cellular De Avalos

Chapter 7

#77.00 Trustee's Motion to Dismiss Case

EH__

Docket 43

*** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
12/18/19

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Noel Guerrero Avalos

Represented By
Todd L Turoci

Joint Debtor(s):

Veronica Cellular De Avalos

Represented By
Todd L Turoci

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

11:01 AM

6:19-13500 Joe A Pickens, II

Chapter 13

#77.10 Trustee's Motion to Dismiss Case

EH__

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joe A Pickens II

Represented By
William Radcliffe

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

1:00 PM

6:19-20173 Roshanda Jeannen Dodds

Chapter 13

#78.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 9658 Bella Vista Dr., Morongo Valley, CA 92256

MOVANT: ROSHANDA JEANNEN DODDS

From: 12/10/19

EH__

Docket 9

Tentative Ruling:

12/10/2019

Service is Improper
Opposition: None

11 U.S.C. § 362(c)(3)(C)(i)(II)(cc) provides for a statutory presumption that a case was filed in bad faith when a debtor had a case dismissed in the previous year after failing to perform the terms of a plan confirmed by the court. Here, Debtor's previous case was dismissed for failure to make plan payments on October 31, 2019. Therefore, the instant case is presumed to have been filed in bad faith. Section 362(c)(3)(C) requires that Debtor submit "clear and convincing" evidence in order to rebut the presumption that the case was filed in bad faith. Here, the evidence submitted by Debtor indicates that she is now receiving family support. The evidence submitted by Debtor does not provide any detail regarding the source, amount, or duration of the family support now received. Therefore, Debtor has not provided any "clear and convincing" evidence establishing a change in financial circumstances between the dismissal of the previous case and the filing of the instant case.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

1:00 PM

CONT... Roshanda Jeannen Dodds

Chapter 13

Additionally, the Court notes that Judge Houle's self-calendaring procedures require that motions to continue the automatic stay which are served on shortened time be served on secured creditors pursuant to FED. R. BANKR. P. Rule 7004. Here, Debtor has not complied with this service requirement.

Therefore, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Roshanda Jeannen Dodds

Represented By
Nicholas M Wajda

Movant(s):

Roshanda Jeannen Dodds

Represented By
Nicholas M Wajda

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

1:00 PM

6:19-20474 Victor Manuel Rosales

Chapter 13

#79.00 CONT Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 9215 Trovita Cir, Riverside, CA 92508

MOVANT: VICTOR MANUEL ROSALES

From: 12/17/19

EH ____

Docket 8

Tentative Ruling:

TENTATIVE RULING:

12/17/19

Service: Proper
Opposition: None

The Court has reviewed the motion. The notice was proper, and no opposition has been filed. Debtor declares that his prior case was dismissed because he was injured at work and placed on light-duty. Debtor provided a statement of earning showing that he worked less than full-time in a two-week period; however, he declared he was injured for a longer period of time, about six months. Evidence here should establish the prior payment before injury, the reduced amount during injury, and the new amount of full pay, as well as evidence of injury.

The evidence provided by the Debtor does not rebut the presumption pursuant to 11 U.S.C § 362(c)(4) that the case was filed in good faith regarding Debtor being able to pay creditors in full. Thus, the Court is inclined to DENY the motion or continue for further evidence.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Thursday, December 19, 2019

Hearing Room 303

1:00 PM

CONT... Victor Manuel Rosales

Chapter 13

Debtor(s):

Victor Manuel Rosales

Represented By
Marjorie M Johnson

Movant(s):

Victor Manuel Rosales

Represented By
Marjorie M Johnson

Trustee(s):

Rod Danielson (TR)

Pro Se